Public Utilities

FORTNIGHTLY



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July 30, 1936

THE FPC, THE FCC, THE SEC
By Harold Brayman

« »

After TVA—What?
By Bancroft Mitchell

« »

The Migratory Trailers and the Tourist Camps
By Spencer D. Parratt and Allan Flattery

PUBLIC UTILITIES REPORTS, INC.
PUBLISHERS

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Editor—HENRY C. SPURR
Associate Editors—ELLSWORTH NICHOLS, FRANCIS X. WELCH
Contributing Editor—OWEN ELY

Public Utilities Fortnightly

VOLUME XVIII *July 30, 1936* NUMBER 3

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¶ *This magazine is an open forum for the free expression of opinion concerning public utility regulation and allied topics. It is not the mouthpiece of any group or faction; it is not under the editorial supervision of, nor does it bear the endorsement of, any organization or association. The editors do not assume responsibility for the opinions expressed by its contributors.*

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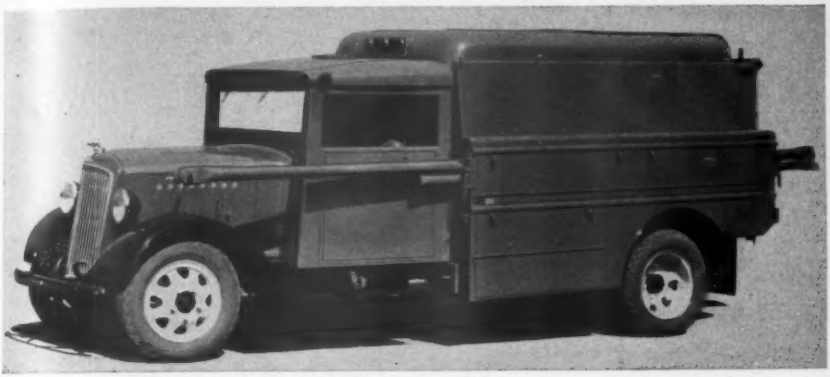
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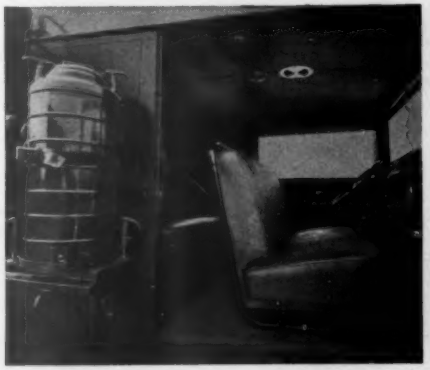
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Pages with the Editors

As the political campaign grows hotter with the summer months, we cannot resist the temptation to repeat the odd verse that the old comic team of Webber and Fields used to sing about this season on the vaudeville stage of fond memory:

Who shtands der streeds und gorners round
Mitt sefrel agzes to be ground
Und shmiled and bowed und nefer frowned?
Der Gandidate,
Who holtz your hand ven you vud shtart
Und told you you vas mighty shmart
Und how he liffed you mit his hart?
Der Gandidate.

TRUE, it is now an accepted form of American humor to josh the baby-kissing tactics of our aspiring politicians, but the serious thought arises, who is responsible?

FORMER President Lowell of Harvard University once urged the Massachusetts legislature to establish a pre-primary convention system of nominating because he felt that direct primaries have disappointed the hope of finding a better system of selecting public officers than the party convention. When we witness the spectacle of sincere public servants tumbling down to defeat in direct primaries because they refused to make impossible promises, it recalls Edmund Burke's definition of a parliamentary representative's duty to his constituents:

HE owes you, said Burke, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.

MUCH as we need sincere and responsible judgment in our legislatures, it would seem that we need it even more in the administrative departments of our executive branch. This need grows more insistent as we create new commissions to perform the complicated and responsible task of regulating industry. These servants must exercise not only polite acumen but economic sense as well.

PERHAPS Winston Churchill, former British chancellor of the exchequer, came nearer to the heart of the American government's problem when he pointed out the not unfamiliar absorption of young Americans in business, in contrast to the general inclination of capable and educated young Englishmen to enter the public service.

THE precise design of the political machinery we happen to be using is of vastly less importance in determining the kind of government we get than we are prone to believe. Popular thinking overemphasizes the text of our statutes and even the form of our political institutions, to the neglect of consideration of the personal equation in governmental administration. This is only another way of describing our lamentably great faith, verging upon childishness, in the efficacy of mere legislation.

TURNING from the general to the specific, our government has, during the three years of the New Deal, brought into existence two Federal commissions (the Security and Exchange Commission and the Federal Communications Commission) and immeasurably increased the importance of a third (the Federal Power Commission). All three of these bodies have tremendous power for better or for worse over the destinies of American business and, therefore, over American political economy. Public utilities are, of course, most directly affected.

WHAT kind of public servants man these commissions? Who are they? What are their likes, dislikes, characteristics, and backgrounds? These intimate things about our Federal commissions are frankly discussed in the leading article in this issue (beginning page 115) by HAROLD BRAYMAN.



HAROLD BRAYMAN

He finds the SEC able and practical, the FPC promising and progressive, the FCC dizzy with politics.

(SEE PAGE 115)



More profits from *increased* volume!

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MR. BRAYMAN who has undertaken this important inquiry is the Washington correspondent for the *Philadelphia Evening Public Ledger*. He is an experienced and unbiased reporter. Nevertheless, our editorial position as to this and other articles published in the FORTNIGHTLY should be recalled. These articles express only the personal opinion of the authors; they do not necessarily reflect the attitude or position of the editors.

WITH all the controversy in the newspapers and elsewhere that seems to have been stirred up by two recent FORTNIGHTLY articles on the subject of whether TVA is helping or hurting private utilities, it might be well to look further into the future and consider what will happen to private utilities after TVA has become *fait accompli*, as the diplomats say. Such is the spirit of a disinterested inquiry by BANCROFT MITCHELL (beginning page 129 of this issue).

MR. MITCHELL, who hails from St. Paul, Minn., via Princeton University (A.B. '28) is not a lawyer, but the penetrating character of his constitutional analysis (fortified by education on that subject in the Harvard Graduate School of Business Administration) would do justice to many an advocate who has addressed the supreme tribunal of the law at Washington. MR. MITCHELL's special interest in utilities is the financial aspect. (Perhaps that is why his treatment of the subject of public ownership *is* so disinterested.) Following three years of investment experience with J. P. Morgan & Co., he was appointed head of the public utility section in the investment departments of one of the leading trust companies in New York.



BANCROFT MITCHELL

He pictures the worst that can happen to private utilities—after TVA.

(SEE PAGE 129)



ALLAN FLATTERY

Should our tourists' camps be regulated as public utilities?

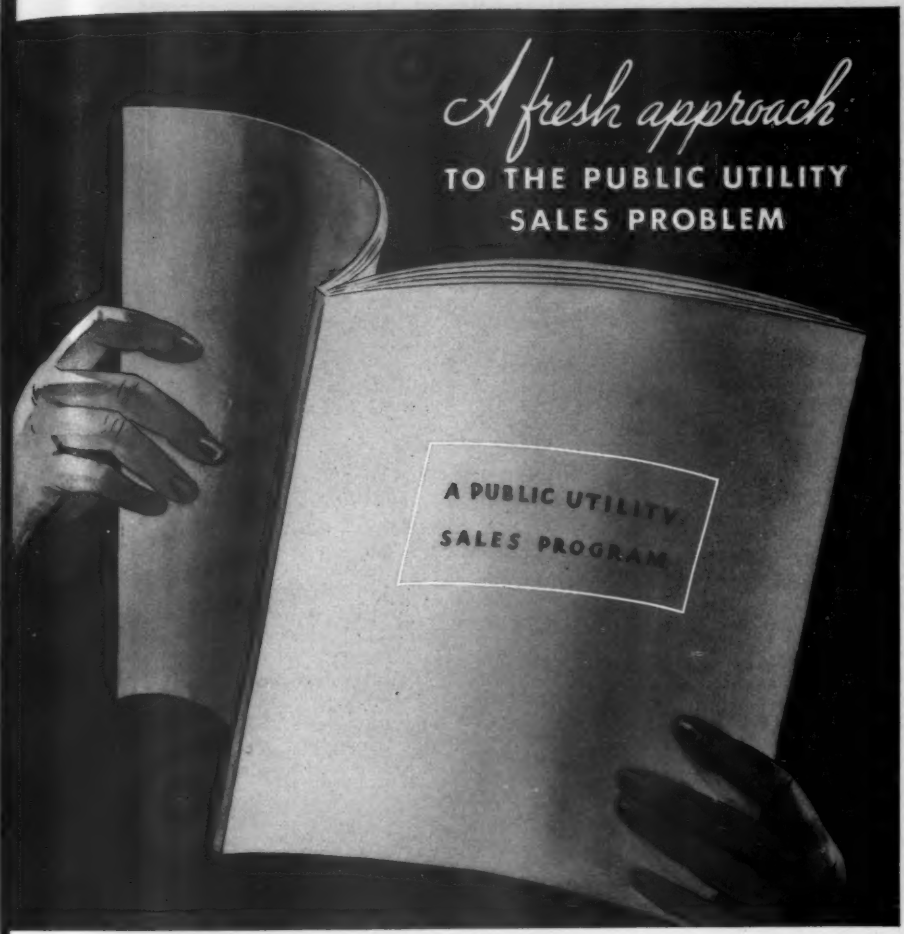
(SEE PAGE 137)

A NOVELTY in the way of a regulatory article is that dealing with tourist camps (beginning page 137) by PROFESSOR SPENCER D. PARRATT, of Syracuse University's School of Citizenship and Public Affairs, and one of his "most hopeful" pupils, ALLAN FLATTERY, who gained his A.B. just last June. Enterprising MR. FLATTERY collected material for this article first-hand by touring the country and making careful note of conditions concerning tourist camps and the increasingly ubiquitous automobile trailer. PROFESSOR PARRATT supplemented these observations with his technical knowledge and research.

INCIDENTALLY, PROFESSOR PARRATT will be remembered as one of the joint authors (with Professor Herman C. Beyle, also of Syracuse University) of a scientific method for testing out public opinion on various degrees of public utility regulation. This subject was extensively reviewed in PUBLIC UTILITIES FORTNIGHTLY of August 1, 1935. He holds degrees of J.P. and Ph.D. from the University of Chicago and now teaches the subject of public utility regulation at the Syracuse institution.

THE next number of this magazine will be out August 13th.

The Editors



NEW 45-PAGE BOOK SENT FREE TO SALES EXECUTIVES

Every utility sales executive to whom this authoritative new merchandising study by Remington Rand has been shown, has been enthusiastic in his praise of it. And no wonder! It presents methods by which every phase of sales activity and load building may be controlled. It tells how to obtain complete figures by territories as easily as for an entire operation . . . how to determine exactly what kind of job each salesman is doing . . . how to be sure of your market analysis . . . and even how to successfully promote dealer cooperation. In all "A Public Utility Sales Program" consists of 45 plainly typed pages of suggestions on all phases of utility sales activity. It should be read by every major utility sales executive. A copy will be put in your hands upon request and with no obligation. Merely write, giving your position, to Remington Rand, Buffalo, N. Y.

OK.. it's from
Remington Rand

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REPRINTS FROM PUBLIC UTILITIES REPORTS

Various regulatory rulings by courts and commissions reported in full text, pages 1–56, from 14 P.U.R.(N.S.)

New Heavy Duty a-c Circuit Breakers

PROGRESS in PROTECTION

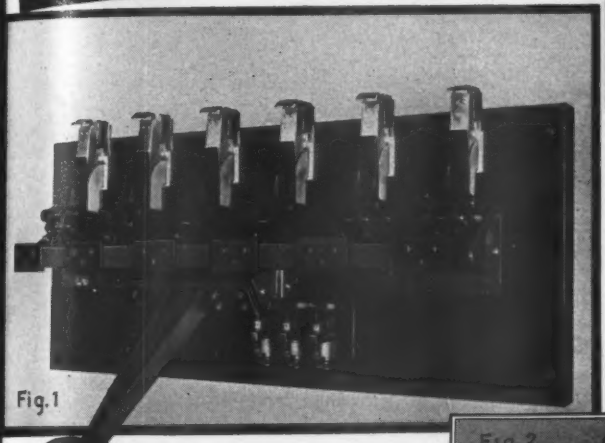


Fig. 1

ADJACENT SWITCH ELEMENTS CARRY CURRENT OF DIFFERENT PHASES

Arrangement of switch elements avoids large voltage drop caused by skin effect;

reduces localized heating;

raises safe carrying capacities;

simplifies connection with interlaced bus bars.

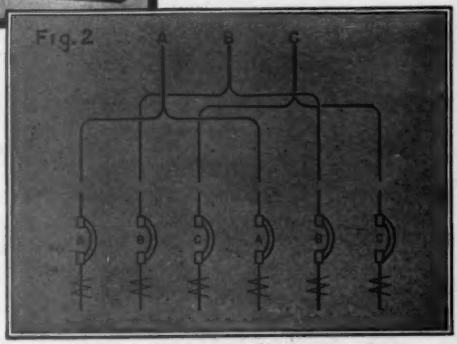
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Unequal current distribution is avoided so that the temperature rise in contacts and bus bars is equalized. This makes possible a more economic use of copper. Inductive heating in nearby steel structure is greatly reduced.

The same advantages are to be gained when switch members of like phase are separated vertically.

The low reactance inherent in this type of construction is particularly advantageous in low voltage systems . . . for example in electric furnace installations.



In addition to showing one plan for locating and connecting switch members, this diagram indicates that bus bars may be separated and interposed in a like manner. The advantages of separating bus bars in this way, for as much of the run as possible, are well established.

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Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

BRUCE BARTON
Chairman of the Board, Batten, Barton, Dustine & Osborn.

"Industry will be compelled by public opinion to conduct its affairs in the open."

DR. HAROLD W. DODDS
President of Princeton University.

"Liberalism insists that difficult questions are settled better by discussion than by force."

F. E. FROTHINGHAM
Chairman, Public Utilities Committee, Investment Bankers Association.

"Government negotiates only one way, and that is in the direction of increase of its authority."

THOMAS N. McCARTER
President, Public Service Corporation of New Jersey.

"I may be overoptimistic but I think I sense that the peak of this government fight on utilities has passed."

JOSEPH A. GAVAGAN
United States Representative from New York.

"We send bills to the Senate and when they come back from conference even the father would not know the child."

REV. DR. IRVING H. BERG
Chaplain, New York University.

"The fundamental moralities and the ethical ideals which are characteristic of all the best phases of our American life do not change."

DR. CHARLES SEYMOUR
Professor, Yale University.

"There has never been a time when our country had more need of the kind of freedom that is based upon intelligent use of knowledge."

RAYMOND MOLEY
Editor, Today.

"A rising tide of 'moderation' in public opinion toward business is apparent and the word 'conservative' is returning to the realm of respectability."

FIORELLO H. LA GUARDIA
Mayor of New York City.

"The people of our city are being deprived of common place comforts that families in other parts of the country are enjoying, because of a high rate of current."

HENRY FORD

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JOHN LORD O'BRIEN
Attorney at Law.

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HOMER T. BONE
United States Senator from Washington.

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HARPER SIBLEY
President, Chamber of Commerce of the United States.

"If the entrance of government into the field of producing and distributing electric power could be justified in principle, it would require no stretch of conscience to project it into other fields of business."

WALTER LIPPMANN
Political analyst.

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FRANKLIN D. ROOSEVELT
President of the United States.

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FRANK T. POST
President, The Washington Water Power Company.

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ARTHUR E. MORGAN
Chairman, Tennessee Valley Authority.

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DETROIT EDISON CO., *Conners Creek Station*
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***KANSAS CITY POWER & LIGHT CO.,** *Northeast Station*
One unit: capacity—300,000 lb; design pressure—1400 lb; total temperature—815 F

***MISSOURI POWER & LIGHT CO.,** *Jefferson City, Mo.*
One unit: capacity—100,000 lb; design pressure—900 lb; total temperature—825 F

***NEBRASKA POWER CO.,** *Omaha Steam Station*
One unit: capacity—275,000 lb; design pressure—1350 lb; total temperature—910 F

***NEW YORK EDISON CO.,** *Waterside No. 2 Plant*
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***ROCHESTER GAS & ELECTRIC CORP.,** *Station 3*
One unit: capacity—250,000 lb; design pressure—750 lb; total temperature—750 F

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***UTAH POWER & LIGHT CO.,** *Provo Steam Electric Station*
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***VIRGINIA ELECTRIC & POWER CO.,** *12th St. Station, Richmond, Va.*
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Grinnell Welding Fittings are seamless, smooth inside and out. They weld easily. Their welding ends match up to pipe, whether Standard, Extra Strong, or O.D.—and their pressure-temperature ratings are the same as seamless pipe.

These Grinnell Fittings assure simpler, cleaner, more uniform installation of any piping system. Catalog 2 gives full details.

GRINNELL COMPANY
EXECUTIVE OFFICES PROVIDENCE, R. I.
Branch Offices in Principal Cities

GRINNELL
. . . WHENEVER PIPING IS INVOLVED . . .

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However patent the truths about high efficiency and incomparable performance may be, the urge to possess an appliance is developed by the degree in which the exterior appearance reflects its features with dignity and good taste. The new Niagara *Two-Twenty* Gas Air-Conditioning Unit cannot be denied its public winning attractiveness, created by a noted designer of household appliances.

Walter L. Seelbach

W. L. Seelbach, *Secretary-Treasurer*
THE FOREST CITY FOUNDRIES COMPANY
CLEVELAND, OHIO

Niagara Gas Fired Air-Conditioning Units will be displayed at the Association of Gas Appliances and Equipment Manufacturers Exposition at Atlantic City in October, 1936.

NIAGARA

Two-Twenty

GAS AIR-CONDITIONING SYSTEMS

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Exide
BATTERIES

—choice of transit systems and bus lines whose policies permit no compromise with quality « «

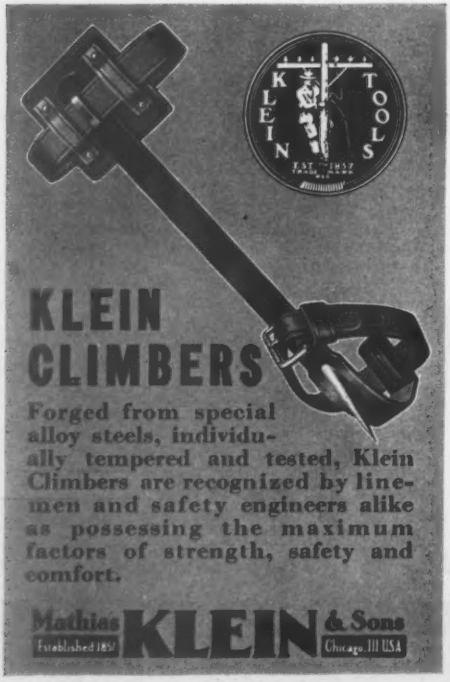
IT is significant that Exide Batteries are used by so many of the country's successful transit and bus lines.

It is not to be implied, of course, that their success is dependent upon their use of Exides. But the operating company that is so meticulous in the choice of its batteries will naturally gauge the selection of *all* its equipment by the same high standards . . . and the traveling public appreciates the attention paid their comfort and safety.

THE ELECTRIC STORAGE BATTERY COMPANY

The World's Largest Manufacturers of Storage Batteries for Every Purpose

PHILADELPHIA

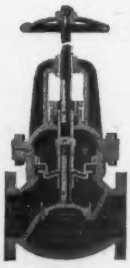


KLEIN CLIMBERS

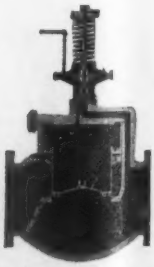
Forged from special alloy steels, individually tempered and tested, Klein Climbers are recognized by linemen and safety engineers alike as possessing the maximum factors of strength, safety and comfort.

Mathias Established 1857 **KLEIN** & Sons Chicago, Ill. U.S.A.

PLANT SAFETY
WITH GOLDEN-ANDERSON AUTOMATIC VALVES



Safety Stop Non-Return valves protect lives and property, automatically, against live steam flows due to boiler ruptures or steam line breaks.



Perfect water level control assured by the Altitude Control Valve . . . the most efficient and dependable automatic valve for tanks, standpipes and reservoirs.

Ask for your copy of catalog for our complete line of automatic control valves

Golden-Anderson Valve Specialty Co.
1380 Fulton Bldg. *Pittsburgh, Pa.*

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You can do Better with Frigidaire

FIRST . . .

FRIGIDAIRE

IS THE FINEST REFRIGERATOR MAN HAS MADE

• We base our statement on several facts....Frigidaire is a product of painstaking craftsmanship. Every construction detail is evidence of this truth. Every feature emphasizes Frigidaire's leadership. For example, the "Meter-Miser," Frigidaire's remarkable cold-making unit with only three moving parts, including the electric motor, has a *proved* record of outstanding performance and dependability.

Frigidaire has a rich background of exclusive refrigeration experience. As a member of the large General Motors family, Frigidaire has at its command the resources and talent of one of the world's largest manufacturers of mechanical equipment.

Because of experience and resources, Frigidaire has consistently led the industry in refrigeration improvements. Frigidaire "firsts" include: Cold Control, Hydrator, Automatic Reset Defrosting, Automatic Tray Release, Quickube Tray, Freon Refrigerants, and others. Many of these improvements have been adopted by the entire industry.

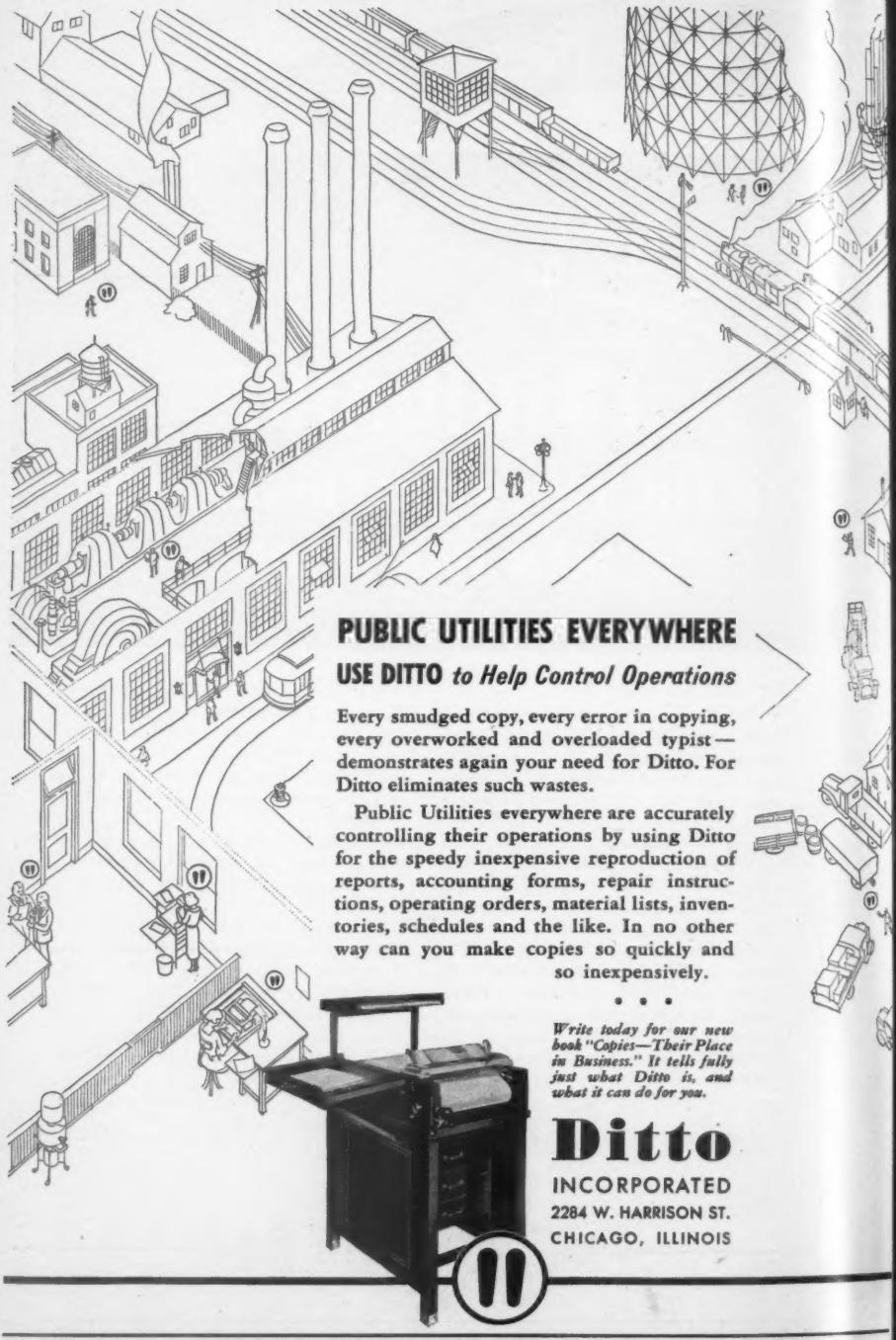
Customers are your sole assets. To maintain and increase their goodwill, it is wise business judgment to sell them only the finest merchandise money can buy.

On this point Frigidaire meets all your requirements, and is the ideal refrigerator to sell.

FRIGIDAIRE CORPORATION · DAYTON, OHIO

FRIGIDAIRE
MADE ONLY BY GENERAL MOTORS

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CHICAGO, ILLINOIS

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1936

CAPITAL AND SURPLUS

$5,000,000

GROWTH

THAT DEMANDS RECOGNITION

The first Hygrade Lamps were manufactured in 1901. The capitalization of the company was $3500. Hygrade Lamps entered the market in competition with bulbs produced by the largest manufacturers of electrical equipment in the world. Yet, by the sheer power of their fine quality, they have steadily forced growing recognition of their merits until today's demand for them has reached a volume that is the third largest in the country—and the company's capital and surplus is over five million dollars.

A big company—a big name. A concern whose record and product must command respect—and consideration in your scheme. A story of the facts behind such tremendous growth must be worth listening to. It's a story that offers economies as well as quality, a story that is interesting more and more important utilities—particularly on street lighting. A story you ought to know. Ask us to give it to you.

1901
CAPITALIZATION
$3500

SPECIALISTS IN STREET LAMPS

HYGRADE SYLVANIA CORPORATION, SALEM, MASSACHUSETTS

HYGRADE LAMPS

Manufacturers of incandescent lamps for over 30 years.
Makers of Sylvania *Set-tested* Radio Tubes

© 1936, Hygrade Sylvania Corp.

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Clear . . . **FLAWLESS GLASS** *with*

BRASS BUSHING—*the* **IDEAL** *insulator*

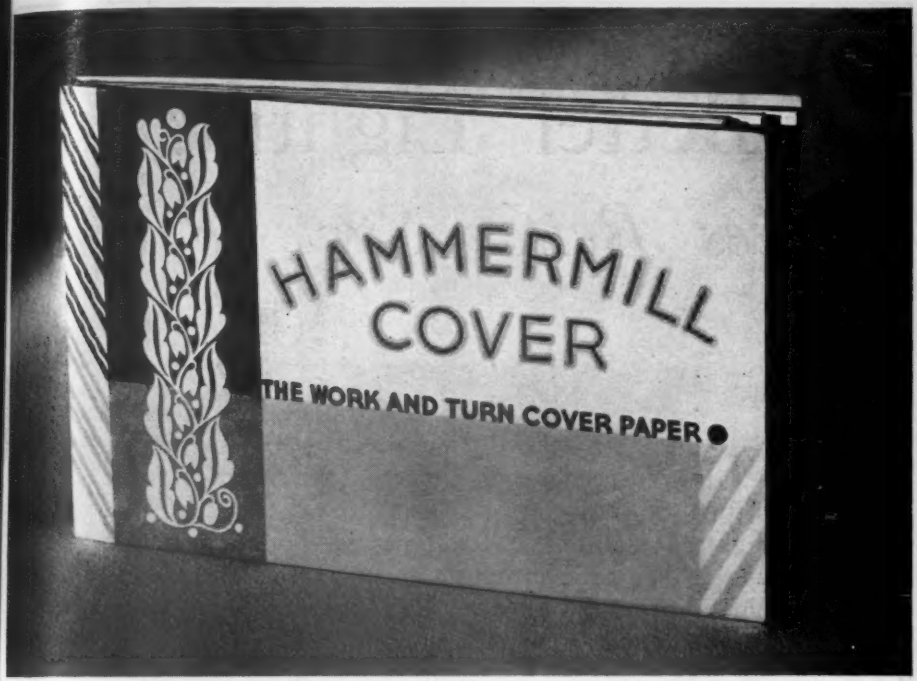
When you "line up" with HEMINGRAY you line up these Advantages:

1. Brass bushed smooth threads for insulator pin.
2. Greater mechanical strength.
3. Sustained high dielectric strength.
4. Unaffected by sudden temperature changes.
5. Withstand maximum insulator pin expansion.
6. Never age or deteriorate.
7. Controlled uniformity of product.
8. All surfaces impervious to moisture.
9. Tougher—withstand rough handling.
10. Clear and flawless for easy inspection.

● This rugged new Hemingray Glass Insulator stands up better in all adverse weather conditions. It's *brass bushed,* providing perfect threads for uniform contact with pin—permitting quick, full-length insertion—and safeguarding against pin expansion. Its many all-around advantages clearly point to the brass bushed Hemingray as the ideal insulator for low-cost distribution service. All styles in clear and brown color. Ratings up to 15,000 volts. Write for descriptive bulletin . . . Owens-Illinois Glass Company, Hemingray Division, Muncie, Ind.

HEMINGRAY
Glass
INSULATORS

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Send for this useful Sample Book of HAMMERMILL COVER

HERE'S what we offer the man who, among a million other things, must get out catalogs, booklets, brochures—and often plan them overnight.

It's a sample book of Hammermill Cover, showing the 12 tested and proven colors, 9 finishes and 3 weights that together make up the 324 stock items. See for yourself that Hammermill Cover is "the work-and-turn cover paper" . . . alike in color and printing characteristics on both sides. See the exceptional folding qualities . . . the true colors that come from the finest dyes available . . . the possibilities this cover paper has for your range of needs.

Of course you're busy. Just let your secretary send in the coupon.

If you prefer, omit coupon and simply write us on your letterhead

HAMMERMILL
COVER

Hammermill Paper Company, Erie, Pa.
Gentlemen: Please send me your sample book of Hammermill Cover, without charge or obligation.

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Address_____

(Please attach to business letterhead)

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Better Lighting
makes Better Store Fronts

THAT'S why the Pittsburgh Plate Glass Company recommends to every purchaser of a Pittco Store Front the installation of adequate lighting facilities at the time the store front is built. We believe that close coöperation between the Pittsburgh Plate Glass Company and the Public Utilities in this respect, results not only in better business for both, but in more efficient store fronts for the American merchant.

If you are not already familiar with the means used by our store front department to assist in swelling your load through the exchange of prospects, the maintaining of a store front design department, and the showing of films on the value of modern store fronts and proper lighting, we suggest that you contact the manager of our nearest branch warehouse, or write to us direct at Pittsburgh.

CARRARA STRUCTURAL GLASS
PITTCO STORE FRONT METAL
PITTSBURGH MIRRORS

PITTCO
STORE FRONTS
glass...metal...paint

PITTSBURGH PAINT PRODUCTS
POLISHED PLATE GLASS
TAPESTRY GLASS

PRODUCTS OF
Paint { PITTSBURGH PLATE GLASS COMPANY } Glass

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MONROE ADDING-CALCULATOR
Model LA-6 Portable, weighs only 16 pounds.

THE FOUNDATION OF BUSINESS FIGURING

Yet it takes no more desk space than a letterhead

siness is completely dependent on a steady, speedy w of accurate figures. Monroe's entire function for enty-four years has been to keep business figures mov- simply, quickly, accurately, and at the lowest cost. The expanded Monroe line includes among its 197 dels a machine for every figuring need—adding- lculators, adding-listing and bookkeeping machines, ck writers and signers. Every Monroe is compact for k use, sturdy for years of service, yet light enough carry from desk to desk.

"Velvet Touch" keyboard is an exclusive feature of every Monroe. The operation is feather-light, to take the strain from figuring, for 80% of all the work is on the keyboard. Whether you own one Monroe or a hundred, you are assured of uninterrupted figure production by the nation-wide service of 150 Monroe-owned branches from coast to coast. Try a "Velvet Touch" Monroe on your own figures. Call up the nearest Monroe branch or write to the factory. There is no obligation. Send for free copy of booklet, "If Only I Could Work on Your Desk for an Hour." **MONROE CALCULATING MACHINE CO., Inc., ORANGE, N. J.**

it the Monroe Exhibit — Accounting Section, American Gas Association, Atlantic City, October 26 — 30

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Style Bar-S All Weather Binder

FOR METER READING

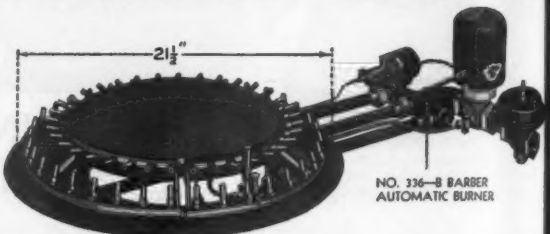


Write us for circular and details. Send sample of your sheet for prices on any quantity of binders.

GRAND RAPIDS LOOSE LEAF BINDER COMPANY

10-16 Logan Street, S. W. « » GRAND RAPIDS, MICH.

The Record of BARBER BURNERS Proves Their Superiority in Operation



FOR 18 years the name BARBER has established standards by which most Conversion Burners are judged. Barber Burners *stay sold.* They cut down complaints and removals, reduce servicing to the absolute minimum. Every Barber Conversion Burner is *specifically adapted* to the Heating System for which it is intended. Barber also makes specially designed Burners for numerous types of Gas-burning Appliances.

- "Tailor-made" to *suit* and *fit* the grate dimensions of round oblong furnaces or boilers.
- Insures a "scrubbing" flame action on side walls of firebox, the proper level, with 1900° Fahrenheit flame temperature. No fi brick or refractory elements needed.
- Furnished with Klixon or Baltimore Safety Pilot Control—positi and accurate. Listed in the A. G. A. Directory of Approved Appliance

We supply Sales Literature, Specification Data Sheets and Practical Sales Assistance. Write for Latest Illustrated Catalog No. 37 and Revised Price List.

THE BARBER GAS BURNER COMPANY
3704 Superior Avenue, Cleveland, Ohio

THE BARBER GAS BURNER CO. of MICHIGAN
4475 Cass Avenue, Detroit, Michigan

BARBER *Automatic* JET GAS BURNERS

For Warm Air Furnaces, Steam and Hot Water Boilers and Other Appliance

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Reclaim THIS USABLE SPACE

WASTED FLOOR SPACE

Kinnear Rolling Doors open upward—out of the way. Convenient as a window-shade! Allowing space once wasted on "door storage" to be utilized . . . and to-day's planning demands that every foot count. So if the need calls for either a barrier against intrusion or a full fledged door the word KINNEAR in your specifications assures maximum space economy—plus designing cooperation, efficient and durable construction, and permanent nation-wide service that only Kinnear's years of specialization makes possible.

Above: Impassable barrier when closed —out of sight when open. Attractive and built in various metals.

Below: Remotely controlled Kinnear Motor Operated Steel Rolling Door. Saves time and labor, and built to last.

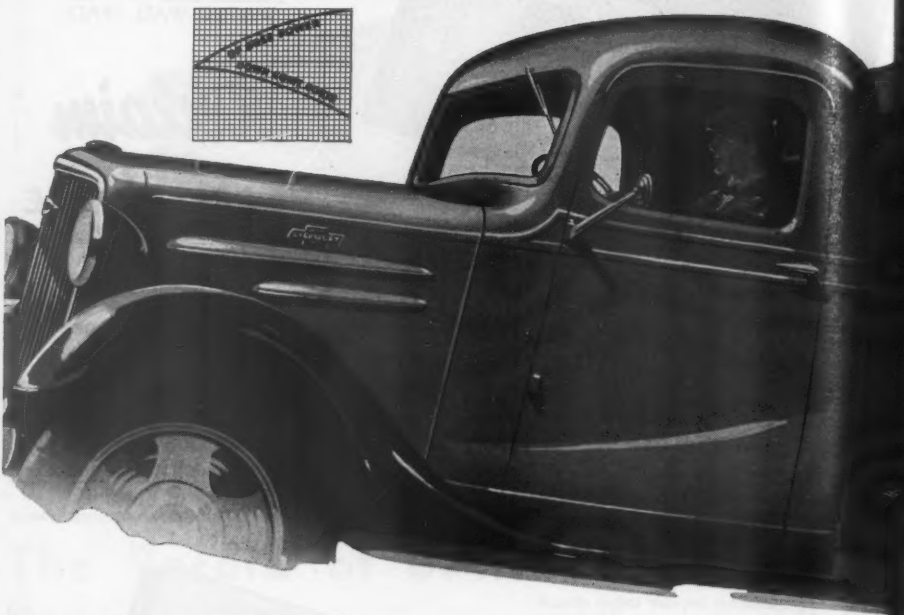


Shall we send you Kinnear's A. I. A. File No. 16-D-13? It will give you helpful data on Kinnear's full line of upward-acting doors for fire or service purposes—in metal, or wood—manually or electrically operated.

The KINNEAR MFG. CO.
2060-80 Fields Ave. Columbus, Ohio
Offices and Agents in all Principal Cities

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NEW PERFECTED HYDRAULIC BRAKES NOW SAVE YOU EXTRA DOLLARS IN CHEVROLET TRUCKS



New Chevrolet Truck Features Cut Haulage Costs to New Low Levels. Let an Actual Demonstration Prove It

NEW PERFECTED HYDRAULIC BRAKES
always equalized for quick, unswerving, "straight line" stops

FULL-FLOATING REAR AXLE
with barrel type wheel bearings on 1½-ton models

NEW FULL-TRIMMED DE LUXE CAB
with clear-vision instrument panel for safe control

NEW HIGH-COMPRESSION VALVE-IN-HEAD ENGINE
with increased horsepower, increased torque, greater economy in gas and oil

FOR ECONOMICAL
CHEVROLET
TRANSPORTATION

Many new money-saving advancements have been engineered into these new Chevrolet trucks. The famous Chevrolet Valve-in-Head Engine now develops greater power . . . yet it uses less gas and oil. New Perfected Hydraulic Brakes are safer . . . and also more economical. Full-Trimmed De Luxe Cab and rugged, dependable, Full-Floating Rear Axle are other features which will win your approval. See these new trucks and learn how real truck economy can save you money in truck operation.

CHEVROLET MOTOR COMPANY, DETROIT, MICH.

POWER • ECONOMY • DEPENDABILITY • LONG LIFE

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PROTECT YOUR MEN WITH "SAFETY-SERVICE"

Accident Prevention Equipment



"Safety-Service" Accident Prevention Equipment has been on the market for over twenty years, and is well and favorably known throughout the country.

The "Safety-Service Line" covers the complete range of Personal Protection for industrial workers—protection from head to foot: Goggles—Respirators—Helmets—Hoods. Also Coats, Trousers, Jumpers, Aprons, Sleevelets, Gloves, Mittens, Leggings, Spats, Hand and Knee Pads—made of "Sturdy-Weave" asbestos, Chrome tanned leather, fire-resisting Cassimere cloth, fire, water and acid-resisting Duck and acid-proof rubber.

Only the finest quality of sturdy, wear-resisting, long-lasting materials are used in the manufacture of all "Safety-Service" Personal Protection items.

NEW GENERAL CATALOG NO. 10



This catalog not only illustrates and describes in detail our full and complete line of Accident Prevention equipment, but it is a book of valuable information that is highly desired by both Safety Engineer and Buyer of Safety Equipment.

If you have some particular accident prevention problem to work out, this book will suggest to you the proper equipment to use, or if your problem is something special write us in detail and we will gladly help you in every way possible to solve it.



Write today for a copy of this valuable catalog—It's FREE!

THE SAFETY EQUIPMENT SERVICE CO.

Buell W. Nutt, President :-: 1230 St. Clair Avenue, Cleveland, Ohio

Manufacturers of a Complete Line of Accident-Prevention Equipment

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EVEREADY
TRADE MARK

INDUSTRIAL FLASHLIGHT

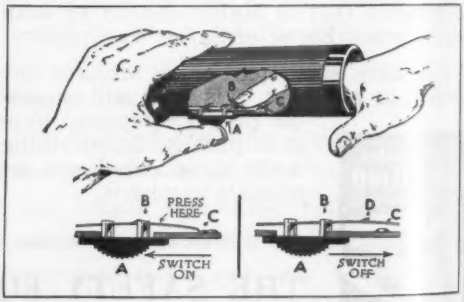
"Built for Rough Treatment"

The "Eveready" Industrial Flashlight is built for ROUGH treatment. The entire outer casing is made of heavy fibre reinforced inside by brass parts to help withstand severe service. The lens and lamp are protected by a special cushioning which softens the hardest impact. This flashlight has no exterior metal parts and it is completely insulated for working around "hot" wires, and therefore prevents shocks and short circuits. The casing will not dent and is not affected by oils, grease, gasoline, alcohol or other solvents and does not deteriorate with age.

The moulded slide switch is positive in operation and slides "on and off" easily. The whole assembly can be readily taken apart and put together without tools. Particles of grit cannot cause trouble.

TO REMOVE: Slide the switch "A" to the "on" position and hold it firmly against the tube with the thumb. Insert longest finger of right hand in tube and press brass contact strip "C" directly in front of lug "B". This pressure releases the latch and the strip will slide out.

TO REPLACE: Hold flashlight as shown and press the switch "A" in the "off" position, holding it firmly against the tube. Insert brass contact strip "C" with the small raised latch piece "D" on the top, Push it through the slot in the first lug "B". Press down on the slide to flatten the "bow". This pressure will lift the end so it may be pushed in through the second lug. Continue to push forward until a distinct click is heard. Then the switch is latched and properly assembled.



NATIONAL CARBON COMPANY, INC.

General Offices: **New York, N. Y.** • *Branches:* **Chicago, San Francisco**

Unit of Union Carbide UCC *and Carbon Corporation*

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What's behind the Scenes?

Before the footlights are music and merrymaking, but behind the scenes are long hours of preparation and hard work.

On the surface, a Dennison tag is only a tag, and a Dennison label is something you stick on a jar or a bottle. But behind the scenes is a story of much greater import. A story of almost a century of research and service. A story of men and machines—of men who serve faithfully and wholeheartedly, of high-powered machinery geared to faster, better work. A story of an organization working in unison, all co-operating to make a better tag or a finer label.

These things you never see. But they result unerringly in better quality products, lower costs, quicker service. And they are here—at your service.

Dennison Manufacturing Co.

FRAMINGHAM MASSACHUSETTS

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During the last few years there has been a decided

SWING to RILEY STEAM GENERATING UNITS

A Few of the Companies who have recently installed Riley Boilers

Lynn Gas & Electric Co. . . .205,000 lbs./hr.—430 lbs.—810°F.
Stone & Webster Engineering Corp., Engineers

W. Va. Pulp & Paper Co., Covington . . . 375,000 lbs./hr.—600 lbs.—750° F.

Titanium Pigment Co. . . . 125,000 lbs./hr.—448 lbs.—637° F.
Ford, Bacon & Davis, Engineers

Large Eastern Oil Refinery . . . 300,000 lbs./hr.—646 lbs.—740° F.

Standard Oil of California . . . 125,000 lbs./hr.—850 lbs.—760° F.
Stone & Webster Engineering Corp., Engineers

Pennsylvania Sugar Refining Co. . . . 350,000 lbs./hr.—400 lbs.—505° F.

Carbide & Carbon Chemicals Corp. . . . 80,000 lbs./hr.—600 lbs.—650° F.

W. Va. Pulp & Paper Co., Luke . . . 375,000 lbs./hr.—631 lbs.—700° F.

Savannah Sugar Refining Co. . . . 100,000 lbs./hr.—325 lbs.—620° F.

Kalamazoo Vegetable Parchment . . . 150,000 lbs./hr.—275 lbs.—650° F.
Prof. C. F. Hirschfeld, Consulting Engineer

Forstmann Woolen Co. . . . 80,000 lbs./hr.—450 lbs.—612° F.

General Aniline Co. . . . 65,000 lbs./hr.—450 lbs.—670° F.

The swing of plant after plant to Riley Steam Generating Units during the past few years has undeniably established Riley as one of the leaders of the boiler industry.

Be sure to consult Riley when steam generating or fuel burning equipment is being considered.

●

RILEY STOKER CORPORATION
WORCESTER, MASS.

BOSTON NEW YORK PHILADELPHIA PITTSBURGH BUFFALO CLEVELAND DETROIT
CINCINNATI ST. PAUL ST. LOUIS ATLANTA KANSAS CITY CHICAGO LOS ANGELES

COMPLETE STEAM GENERATING UNITS
BOILERS - SUPERHEATERS - AIR HEATERS - ECONOMIZERS - WATER-COOLED FURNACES
PULVERIZERS - BURNERS - MECHANICAL STOKERS - STEEL-CLAD INSULATED SETTINGS

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MODERN GROUP DRIVE
PTC

The Basic Principles of
MODERN GROUP DRIVE
IV

SINCE Modern Group Drive accomplishes a logical concentration of machinery into natural production groups, it makes possible an efficient and economic use of power. From the viewpoint of the utility which supplies that power this is a decided advantage for the following reasons:

1. Group motors are operated continuously at, or near, their maximum ratings; resulting in plant operation at high power factor.
2. Group motors tend to average the individual machine loads; thus levelling demand peaks.
3. Because of both factors above, generating capacity in the utility station is made available for *useful* work in other industrial plants.

What is the effect of these three factors on the operating revenues of the utility? High power factor operation lessens the investment in transformers and conductors. Levelled demand peaks mean less idle stand-by capacity during many working hours. And increased salable capacity in the present generating station makes more revenue available.

The conclusion is inescapable, therefore, that Modern Group Drive installations in industrial plants increase net operating revenues of utilities. As a consequence, we believe that utilities should welcome the opportunity of spreading further the gospel of Modern Group Drive. May we explain in detail *how* that may be done most effectively?

***POWER TRANSMISSION COUNCIL**

1 Atlantic Street, Stamford, Conn.

***A research association of producers and distributors of power, power units and mechanical equipment for the transmission of power.**

A POWER DOLLAR SAVED IS A PROFIT DOLLAR EARNED

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Why Bother to Change Dies?



This RIDGID Threads 4 Sizes of Pipe with 1 Set of Dies

Spin up workholder, slide setting posts to size pipe you want to thread, 1" to 2"—and this tool is ready to cut a clean true thread—no bother of changing dies.

This new 65R RIDGID die stock *really does it.* But it also has a workholder you'll like—sets to size by a twist of the gauge ring and tightens with ONE screw.

These too: thumb lever that releases dies from threads when backing off, reversing ratchet by same turn. Straight line action, no cock or wabble. Maximum chip room, enclosed parts. Plenty of strength, but lightest, neatest die made. Ask your jobber.

THE RIDGE TOOL CO., ELYRIA, OHIO

RIDGID

REG. U. S. PAT. OFF.

UNCONDITIONAL GUARANTEE
If this Housing ever Breaks or Distorts we will replace it Free
THE RIDGE TOOL CO. ELYRIA, O.

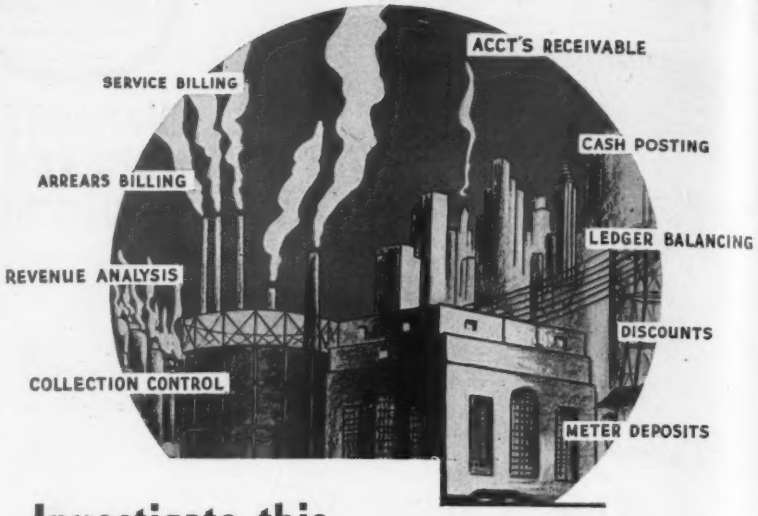
GUARANTEED UNBREAKABLE HOUSING



No other such guarantee against trouble and expense because there's only one such pipe wrench on the market. The RIDGID is now All-Alloy—housing and handle of a remarkable new double-strength alloy metal; jaws of chrome molybdenum nickel steel. Meets U. S. Government and Navy specifications.
In all sizes, 6" to 60", it's a great wrench.

RIDGID
WRENCHES
CUTTERS
THREADERS
VISES
EXTRACTORS

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Investigate this

All-around Accounting Method

¶ In re-equipping your accounting department, don't consider *only* your Current Service Billing needs. This type of billing comprises only 3% of present day customer accounting costs.

¶ Investigate the punched card method of accounting which, in addition to Service Billing, will facilitate the handling of Cash Posting, Ledger Balancing, Discounts, and Arrears and Merchandise Billing. This method will also enable you to control Accounts Receivable, Meter Deposits and other important functions.

¶ This modern electric Accounting method offers complete and more informative records to *the customer, the district offices, the customer service department* and *the management.* Write for complete information today.

INTERNATIONAL BUSINESS MACHINES CORPORATION

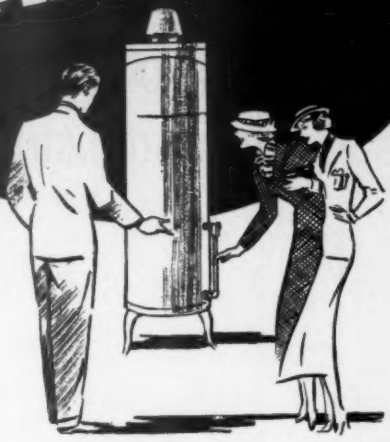
GENERAL OFFICES:
270 BROADWAY, NEW YORK, N. Y.

BRANCH OFFICES IN
PRINCIPAL CITIES OF THE WORLD

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Specify— TITAN CONTROLS *with* COMPLETE CONFIDENCE





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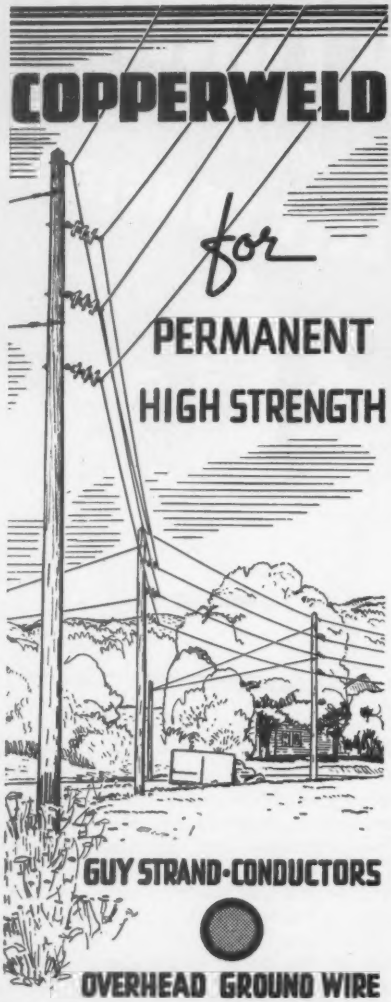
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SIMPLEX VENTURI TYPE METERS, because of their SENSITIVITY and ACCURATE RESPONSE to flow variations over a wide range, will meet your most exacting flow measuring requirements.

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The CHAPMAN List 960

This low-priced steel gate valve can be standardized on all services, corrosive or non-corrosive, on lines up to 2"—can be forgotten for at least five years. Pressures to 800 lbs. at 750°F.; cold working pressures of 2500 lbs. up to the 1" size; larger sizes to 1500 lbs.

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THE SMALL STEEL GATE VALVE WITH THE BIG GUARANTEE

The Chapman Valve Manufacturing Co. agrees to replace without charge any working part or parts of any Chapman List 960 Steel Valve which fails within five years from the date of installation.

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The Purity of Gargoyle D.T.E. Oils Minimizes Sludge and Lengthens Periods between Cleanings



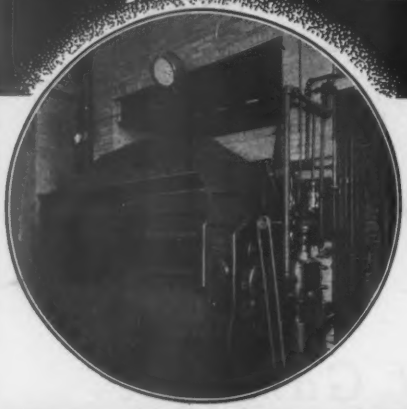
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STANDARD OIL OF NEW YORK DIVISION - WHITE STAR DIVISION - LUBRITE DIVISION - WHITE EAGLE DIVISION - WADHAMS OIL COMPANY - MAGNOLIA PETROLEUM COMPANY - GENERAL PETROLEUM CORPORATION OF CALIFORNIA

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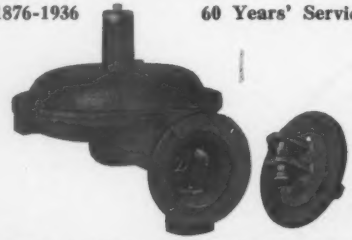
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Pounds to pounds or pounds to inches; Efficient Control; Fully Accessible; Double guided, renewable stream-lined, soft-seated valve gives increased capacity; Replaceable valve ports for changed condition; All parts can be inspected or serviced without removing Regulator from line.

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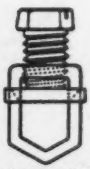
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NO flattening or separating of wires...

NO limitation to one size wire...

NO shearing effect whatsoever...

NO special tools required to make connection...

NO need for you to search any longer for the PERFECT solderless connector—WE HAVE IT!

FREE! A large display board, containing mounted samples of ILSCO lugs. Sent upon request. Address Dept. UF.

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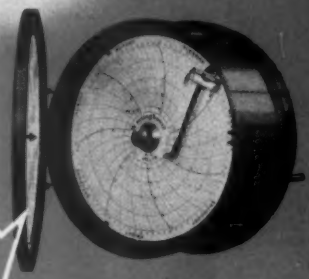
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New Highs IN KILOWATT-HOUR CONSUMPTION *require* LOW-COST LOAD ANALYSIS RECORDS

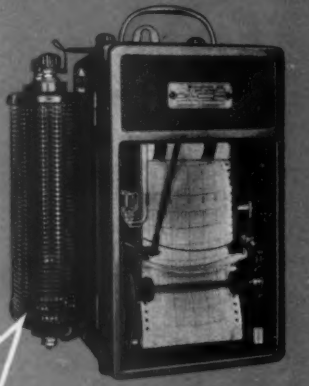
● Consumption of electricity continues its insistent upward trend, totally disregarding the summer "valley." The output for the week ending June 27 set a new all-time high of 2,029,639,000 kw-hrs. Indications point to still larger figures.

The first step in safeguarding service is a load analysis. But a load analysis to be economically feasible, requires low-cost, easily-operated recorders. Westinghouse A and U recording voltmeters and ammeters are recognized as unexcelled economic standards in recording instruments.

Made in both circular and strip-chart designs for portable or switchboard use, these instruments easily and at low cost help determine correct transformer and line capacity for modern load conditions.



CIRCULAR-CHART TYPE A—Fundamentally a switchboard type with a 7 or 1-day easily replaced chart. Also obtainable as a portable. Simple mechanically, yet reasonably accurate. Absence of delicate parts together with high-torque measuring elements assures extremely sturdy construction. A slow-speed synchronous motor simplifies the clock reduction gearing. Most important, the moderate cost of the type A permits its widespread use. ● ● Ask for C.S. 43-415

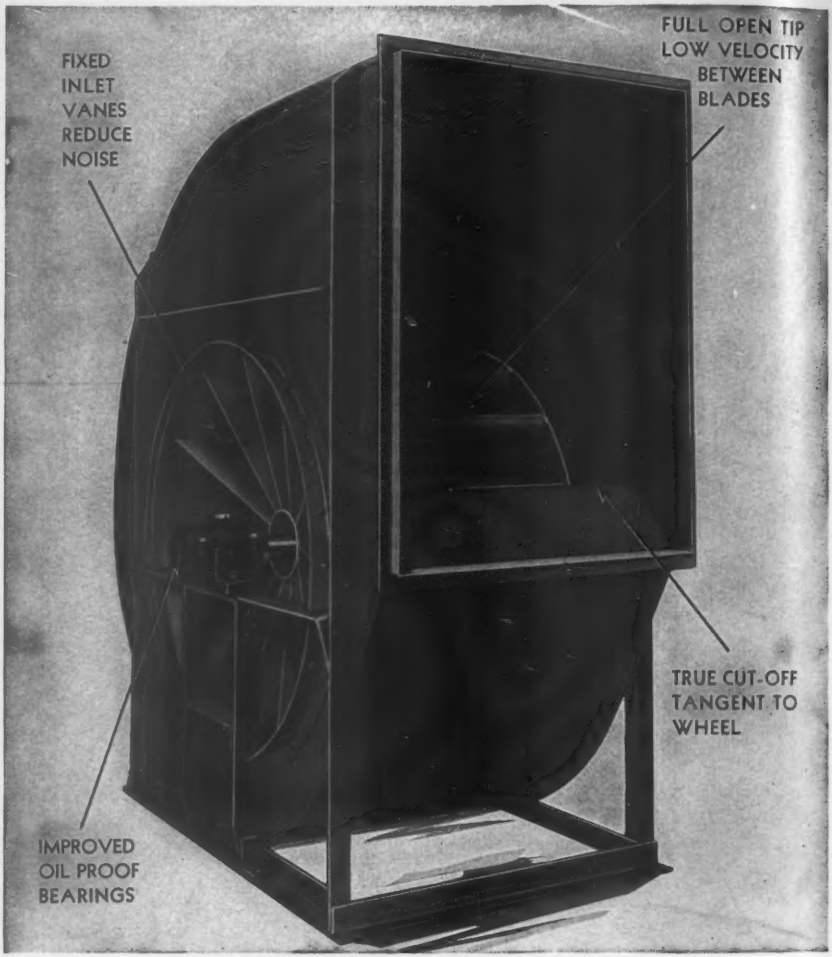


STRIP-CHART TYPE U—Primarily a portable, but may be mounted on a switchboard. With many thousands in service, the type U is recognized as the standard for voltage surveys, load analysis and general industrial applications where graphic records are indispensable for economic operation. It makes possible the obtaining of important data which otherwise would not be taken because of instrument cost. ● ● Ask for C.S. 43-405.

QUALITY — WESTINGHOUSE — 1886 GOLDEN JUBILEE 1936 — METERS INSTRUMENTS RELAYS

Westinghouse

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faultless fan performance on highest attainable efficiencies as a matter of course. But, more important even than this, Buffalo has on its staff the most capable and experienced men in this branch of engineering and a range of equipment that permits them absolute freedom of choice in specification to meet your exact needs. By all means discuss your ventilation problems . . . large or small . . . first with Buffalo.

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easy operation
rapid discharge
long range
large capacity

Here is the big brother that comes to the rescue of the little fellow when he's trying to handle something beyond his capacity.

Wherever there are big buses, trucks, gasoline pumps, electric locomotives, transformers, panel boards, and large rotary units, this one-gallon pressure-operated Pyrene extinguisher offers greater protection.

Speed and force of application are important in fire fighting. Give the valve of this extinguisher a quarter turn and a strong stream discharges one gallon of vaporizing liquid in 55 seconds.

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THERE IS A "GORILLA GRIP" CONNECTOR FOR EVERY CONDUCTOR NO Mmatter WHERE IT TAPS OR TERMINATES

WRITE FOR FULL INFORMATION

National Electric
PRODUCTS CORPORATION
Pittsburgh, Pa.

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Utilities Almanack

JULY

30	Th	¶ *League of Iowa Municipalities will hold meeting, Davenport, Iowa, August 18–20, 1936.*
31	F	¶ *Central States Section, American Water Works Association, will hold convention, Cleveland, Ohio, August 19–21, 1936.*

AUGUST

1	Sa	¶ *American Bar Association will convene for 59th annual meeting, Boston, Mass., August 24–28, 1936.*
2	S	¶ *Pacific Coast Gas Association will hold 43rd annual convention, San Francisco, Cal., August 25–27, 1936.*
3	M	¶ *Illuminating Engineering Society will convene, Buffalo, N. Y., August 31–September 3, 1936.*
4	Tu	¶ *International Association of Municipal Electricians will hold session, New York, N. Y., August 31–September 4, 1936.*
5	W	¶ *National Association of Power Engineers, Inc., will convene, Chicago, Ill., August 31–September 4, 1936.*
6	Th	¶ *Canadian Good Roads Association will hold annual meeting, Charlottetown, P. E. I., September 1–3, 1936.*
7	F	¶ *Third World Power Conference and Second Congress on Large Dams will convene, Washington, D. C., September 7–12, 1936.*
8	Sa	¶ *National Electrical and Radio Exposition will be held, New York, N. Y., September 9–19, 1936.*
9	S	¶ *American Electronic Research Association will hold meeting, Detroit, Mich., September 21–23, 1936.*
10	M	¶ *Association of Iron & Steel Electrical Engineers will hold convention, Detroit, Mich., September 22–25, 1936.*
11	Tu	¶ *Public Works Conference of Am. Soc. of Municipal Eng. and International Asso. of Public Works Officials will convene, Toronto, Can., September 28–30, 1936.*
12	W	¶ *Rocky Mountain Electrical Association will hold annual convention, Santa Fe, N. M., September 21–23, 1936.*

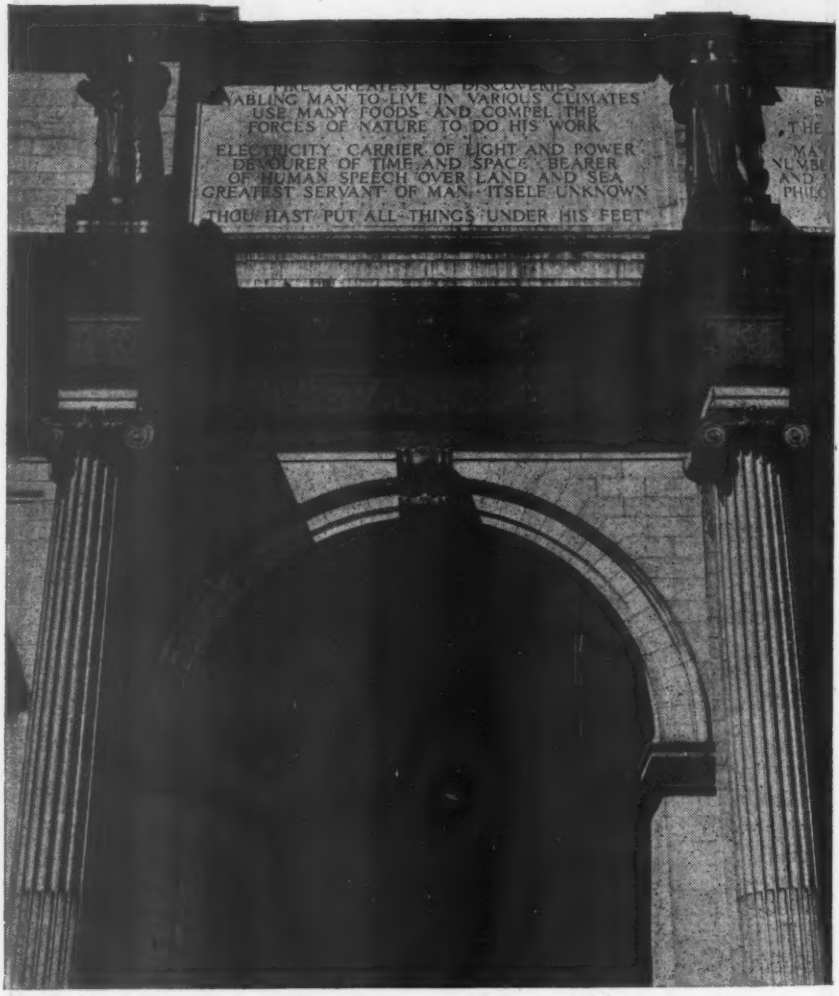


Photo by Horydczak

Main Entrance, Union Station

WASHINGTON, D. C.

Public Utilities
FORTNIGHTLY

VOL. XVIII; NO. 3 JULY 30, 1936

The FPC, the FCC, the SEC

A newspaper man's impression of three Federal regulatory commissions

BY HAROLD BRAYMAN

THERE are perhaps no greater contrasts in official Washington than exist between the three commissions which exercise regulatory power over public utilities, the Securities and Exchange Commission, the Federal Power Commission, and the Federal Communications Commission.

The Securities and Exchange Commission, starting off as it did under the able chairmanship of Joseph P. Kennedy, has approached the problems before it in a very practical and business-like spirit, so much so in respect to issuance of securities and the control of the stock market that it has won, generally, the praise of those whom it has regulated. There is on the face of it no reason to expect that the commission will use other than the same sound sense and good judgment in the administration of the Public Utility Holding Company Law which was thrown in its lap by Congress.

The Federal Power Commission, which regulates the transmission and sale of electric power in interstate commerce, has been almost from the start the subject of bitter controversy. Not only has it administered on some occasions rather ruthlessly the laws which Congress gave it to administer, but it has advised passage of others and taken positions on controversial subjects which proclaimed it not the *quasi* judicial body which some people conceive it should be.

The Federal Communications Commission, newest of the three, which

regulates radio, telephone, and telegraph companies, has acquired a reputation for political maneuvering and internal bickering which was never equaled by the Power Commission in its palmier days of internal dissension.

As things stand it would hardly be unfair to characterize the Securities and Exchange Commission as highly practical, and the Power Commission as thoroughly liberal in the progressive sense of the word, and the Communications Commission as being tinged with politics.

THE general history of all regulatory commissions has been that they were unpopular with the people or corporations they regulated. This has been perhaps partially justified by impractical and visionary administration which caused unnecessary hardships and injustices, and by aims which, however theoretically feasible, worked out in practice to cause annoyances and inconveniences, to say the least, to the business or industry which was regulated. It has been partially unjustified, perhaps, because the definite personal interests of business have been against regulation at any time by the government, and all regulators have therefore been regarded as interfering busy-bodies.

The Securities and Exchange Commission comes the nearest of any regulatory commission in the government to being an exception to this general statement. Some time ago an organization sent out a questionnaire to business men exclusively asking them to state with respect to several regulatory bodies whether they thought the general effect of the work of each body had been good or bad. When this poll was tabulated, it was discovered that the only government commission in regard to which more than 50 per cent of all the answers were favorable was the Securities and Exchange Commission.

THAT high regard, relatively, among business men is traceable directly to the practicality and reasonableness of the original chairman, Mr. Kennedy, and his successor, the present chairman, James M. Landis. Mr. Landis is a top-ranking brain-truster who does not act like a brain-truster. His whole background is academic and sociological. He was born in Tokyo in 1899. His father was a missionary. He attended Mercersburg Academy, was graduated from Princeton in 1921, and from the Harvard Law School in 1924. He remained at Harvard for another year after completing his law course and did graduate work in law. He was of the many protégés of Professor Felix Frankfurter, one of whom Professor Frankfurter was most proud. Professor Frankfurter handed young Landis to Supreme Court Justice Louis Brandeis, with whom he served as secretary for a little over a year.

In 1926 he went back to Harvard as professor of legislation, where he remained until 1933 when Professor Frankfurter loaned him to President Roosevelt to draft the Securities Act of that year in association with Benjamin Cohen and Thomas G. Corcoran. When the bill was passed, he went into the Federal Trade Commission to help administer it and also to help draft the Securities and Exchange Act which followed.

With the creation of the new Secu-

rities and Exchange Commission, he was transferred to that organization, where he participated very closely with Mr. Kennedy in the early work. He has written a few books on legal subjects, including one on labor law and one, jointly with Professor Frankfurter, on the business of the Supreme Court.

When he first came into the commission, he was generally regarded as a wild-eyed radical. Some of the things he said in 1933 and 1934 terrified business. But Mr. Landis never glues himself to an idea. He is able to accumulate experience as he goes along and turn it to practical use. He takes the long-time view of reform, and is not rushing about trying to change the face of the earth and the nature of man overnight.

MOST of his work so far has been in connection with the Securities Act and the regulation of stock exchanges. The main activity in administration of the Utility Holding Company Act up to this point has been the effort, only 10 per cent successful, to get holding companies to register with the commission. That was difficult not because of any particular distrust of the present commission, but because the companies did not want to waive any of their legal rights.

Mr. Landis is not certain that this delay is serious. It gives the commission time to work out and develop a wise course rather than to proceed with the most expedient one.

Regardless of one's viewpoint on the wisdom of the Utility Holding Company Act, it is fairly safe to assume that so long as Mr. Landis remains at the head of the Securities and Exchange Commission, the administration of that act will be fair, reasonable, and well thought out in advance. Mr. Landis is no longer looked upon as the shaggy-maned radical that many people thought him when he first descended from Frankfurter's cloisters to the hectic life of the capital.

THE Securities and Exchange Commission has always worked harmoniously. Two of its members, George C. Mathews and Robert E. Healy, came over with Landis from the Federal Trade Commission. The other two, J. D. Ross and William O. Douglas, have been appointed since. Mathews and Healy are the two Republican members in the commission, but they are not Republicans in the sense that one usually thinks of the G. O. P. Mathews was first discovered years ago by the La Follettes, and is a pioneer in security regulation in the country. Wisconsin was the first state to have an air-tight law regulating the issuance of stocks and bonds, and Commissioner Mathews was the first administrator of that law. His specialty on the commission is the reg-

¶ "As *things stand it would hardly be unfair to characterize the Securities and Exchange Commission as highly practical, and the Power Commission as thoroughly liberal in the progressive sense of the word, and the Communications Commission as being tinged with politics.*"

istration of new issues of securities. He looks like a smug and prosperous business man, but he is a zealot on the question of preventing the flotation of fraudulent securities.

Like Commissioner Landis, however, his enthusiasm is restrained by sound viewpoints and good sense. At the commission they call him "The Rock of Gibraltar."

Because of his interest in the work he is doing, he has turned down several far more lucrative corporation offers. The latest was a $35,000 job with the Associated Telephone Utilities, an independent telephone company. His salary with the commission is $10,000.

Back in 1928 when Congress directed the Federal Trade Commission to make an investigation of utility companies, Calvin Coolidge decided that such an inquiry might not be wise. So he set about to find an investigator who would not dig deeply enough to open any wounds. Commissioner Healy was at that time a Vermont lawyer who had been honored by his neighbors in being elected a county judge. He looked ideal, and President Coolidge had him appointed general counsel of the Federal Trade Commission.

BUT Mr. Healy looked into the subject and acted like a man bitten by a bug. His part of the investigation lasted from that time until 1934. He went into the financial and corporate structure of practically every utility holding company and the voluminous report submitted two years ago had much to do with the proposal and passage of the Holding Company Act of 1935.

Perhaps foreseeing such a development when the Securities and Exchange Commission was created President Roosevelt named Mr. Healy as one of the two Republicans which the law required him to appoint. The appointment was for a 2-year term, so that, whatever Mr. Roosevelt's political fortunes next fall, he will have an opportunity to reappoint Mr. Healy for a full-length term.

William O. Douglas, thirty-seven, just one year older than the youthful chairman, is the specialist and one of the country's leading authorities on corporate reorganization. He is a Democrat, and prior to his appointment was a professor in the Yale Law School for a time. He was in Washington for a year conducting a study of protective committees and corporate reorganizations for the Commerce Department, a subject on which he has written several books.

His legal education was obtained at the Columbia Law School under the stress of working his way through; yet upon his graduation he was taken into the faculty. He later spent a short period in law practice with one of the most famous firms of corporation lawyers in New York, Cravath, de Gersdorff, Swayne, and Wood. He was appointed to his present position in January of this year with an idea to the usefulness of his knowledge and experience in connection with the reorganizations that will be required under the Holding Company Act.

THE fifth member of the commission, James D. Ross, horny-handed, powerful-looking, portly citizen of Seattle, who has such a passion for

Administration of Holding Company Act

"THE main activity in administration of the Utility Holding Company Act up to this point has been the effort, only 10 per cent successful, to get holding companies to register with the commission. That was difficult not because of any particular distrust of the present commission, but because the companies did not want to waive thereby any of their legal rights."



skiing that despite his advanced middle age he took the snow trains every week last winter out of Washington up into the Pennsylvania mountains, has made municipal utility ownership his principal life job.

All through the Northwest he is known as "J. D.," and most of his life has been spent in the development and management of the municipal power plant at Seattle. This is probably the most successful of all the municipal plants in the country. Power there is cheap and widely used. There are more electric ranges in the city than in any other in proportion to population. Ross has been the backbone of the system. Once a Seattle mayor fired him, but at the next election the people fired the mayor and elected one pledged to reinstate Ross.

He is now on leave from his Seattle job with its modest title of superintendent of city light. He came to Washington originally as advisor to Morris L. Cooke, head of the Rural Electrification Administration, and was appointed to the Securities and Exchange Commission after the passage of the Utility Holding Company Act.

He was put on the commission largely because of his utility experience, and if the government wins its battle to abolish holding companies, he may be a key figure in the reshuffling of operating companies into a new series of integrated and contiguous systems. If the government loses, he will probably eventually return to Seattle. So far he seems to be spending a good deal of his time even in Washington still looking out for his pet—the Seattle power plant. He has the same adventurous spirit now which led him as a young man to ride a bicycle from the West Coast to New York and back, and he has no interest in routine jobs.

THE Federal Power Commission is one of the least ballyhooed bureaus of the government, although it is constantly engaged in extremely important work. Its jurisdiction was enlarged last year to include not only water-power projects on navigable streams or affecting interstate commerce or public lands but also to include the interstate movement of electric energy. One of the most important phases of the commission's work is the special surveys which it is constantly being requested to make. The

value and effectiveness of these are dependent almost entirely upon the care and judgment of the commissioners.

The chairman and vice chairman, Frank R. McNinch and Basil Manly, are the two outstanding members of this commission. When Commissioner McNinch was first appointed to the commission, he was bitterly assailed in the Senate as a political appointee. He comes from North Carolina, where he had spent most of his life up to that time. He went to school at Charlotte and later studied law at the University of North Carolina, and since then has practiced in Charlotte off and on since 1900. He served one term in the state legislature and two terms as mayor of Charlotte. He participated actively in every campaign, and it was undoubtedly his participation which won him his first appointment with the commission.

Although a life-long Democrat, he opposed Alfred E. Smith in 1928, chiefly on the prohibition and Tammany issues, and was very influential in making North Carolina go Republican.

WHEN the new Federal Power Commission was set up in 1930, President Hoover selected him as one of its members. This was assailed as a political appointment, and several Senators fought his confirmation vigorously, among them Senator Josiah Bailey, of North Carolina. An attempt was made to connect him with the Duke Power interests, but without success. The progressive Senators accused him of being a conservative, out of sympathy with government regulation of the industry.

At a hearing before the Senate Interstate Commerce Committee he denied bias and frankly admitted that he had little power experience.

"I have," he said, "a deep and abiding interest, although not much information, upon the subject this touches."

He refused flatly to compromise with the Democratic Senators on his anti-Smith stand, saying that "I am unwilling to shape, or reshape, or modify, or apologize for any political opinions I have had or that I entertain now."

Once on the commission, he was almost as much a surprise to President Hoover as Robert E. Healy had been to President Coolidge. One of his first important fights was a movement which he and Commissioner Clyde L. Draper conducted in the famous New River Case to have that stream declared navigable in spite of the opposition of administration forces. That was on April 3, 1931, long before there was any certainty that Herbert Hoover could be defeated by any Democrat; and it took nerve thus to throw overboard his chances of reappointment should Mr. Hoover be re-elected.

IN July, 1933, on the resignation of Dr. George Otis Smith, President Roosevelt designated Mr. McNinch as chairman of the commission, and a year later reappointed him. This time, too, there was trouble in the Senate. Senator Bailey again opposed him on the theory that his "progressive" attitude was "a very timely maneuver" to get on the right side of President Roosevelt. But Senators Norris, Wheeler, La Follette, and the

other antiutility leaders in the Senate all supported him this time. Senator Wheeler praised him as "one of the most efficient and valuable men on the commission."

There is no question where he stands on public utility matters. He has been credited by such a leading crusader against the utilities as Judson King with having written some of the most advanced opinions yet produced on the subject.

Yet Commissioner McNinch is hardly a crusader such as Senator Wheeler or Senator Norris. Earlier in the New Deal he used to make some pretty fiery speeches but lately he seems to have quieted down a good bit. He has much personal affability, but is a persistent plugger in behalf of his beliefs.

BASIL Manly is much the same sort of individual as Commissioner McNinch, except that he came to the commission with a long background of theoretical preparation for his task and much knowledge of his subject. It was his first strictly political position. He is an economist and writer on many economic subjects. He has conducted and written reports, either on his own behalf or for various organizations, on wages and working conditions in the steel industry, prices of anthracite coal, the meat-packing industry, the general question of wages, farmers' tax burdens, world barriers to peace and prosperity, and various other profound and intricate subjects.

He spent four years in the U. S. Bureau of Labor Statistics, was a director of research and investigation on industrial relations, acted as economic expert for the Newspaper Enterprise Association, served as director of Scripps Economic Bureau, and later director of the People's Legislative Service, a La Follette research organization, acted as correspondent for the *New York World* on economic problems, and was special counsel of the Senate committee on campaign expenditures in 1931.

He drifted into the Federal Power Commission through a connection he made in 1932 as Washington representative and special counsel of the New York State Power Authority when that agency was scrapping with President Hoover over the St. Lawrence and other matters. He was appointed to the commission by President Rooosevelt in 1933 and was soon made vice chairman and placed in charge of the commission's national power survey and its electric rate survey. His own power views are perhaps best illustrated by a description he once gave of the policies of the commission.

"The fundamental power policy of the Federal Power Commission is

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¶ "REGARDLESS *of one's viewpoint on the wisdom of the Utility Holding Company Act, it is fairly safe to assume that so long as Mr. Landis remains at the head of the Securities and Exchange Commission, the administration of that act will be fair, reasonable, and well thought out in advance.*"

very simple," he said. "It avoids alike the extreme of state socialism on one hand and economic anarchism on the other. It does not go along with those who demand nationwide public ownership and operation of the generation, transmission, and distribution of electricity. It refuses likewise to be misled by those anarchistic captains of industry who resort to every device to escape regulation so that they may follow their own individualistic and destructive policy."

THE other Democratic member, Herbert J. Drane, is a former Florida Congressman who served from the Sixty-Fifth to the Seventy-Second Congress. He was defeated for renomination to the Seventy-Third Congress and was taken care of by appointment to the Power Commission. Just why the Power Commission was selected as a place to take care of him is a question. Perhaps it was the only thing open at the time.

He was engaged for forty-three years in the insurance business and the growing of citrus fruits. He also ran a real estate business, a mortgage company, and a house-building firm. His political experience, outside of Congress, consists of having been mayor of Lakeland, Florida, county commissioner of Polk county, chief engrossing clerk of the Florida house of representatives, one term as a member of the house of representatives of Florida, and four years in the state senate, the last two of which he was its president.

His record in Congress is not outstanding. He was a member of the Naval Affairs Committee, but left few footsteps in the sand behind him. On the Power Commission, he goes along harmoniously with the other members, just as he used to do in Congress.

CLYDE L. Draper, the senior Republican member of the commission, joined with Commissioner McNinch soon after the latter took office to form what was then the two-man left wing of the body. Before that time, however, he had been a subject of considerable uproar when he joined with former Commissioners George Otis Smith and Marcel Garsaud in discharging William B. King, chief accountant, and Charles Russell, solicitor, both of whom were highly respected by the Senate progressives.

The Senate, which had just confirmed the appointment of Commissioners Draper, Smith, and Garsaud tried to reconsider the confirmation, but President Hoover refused to return the papers, and they held their jobs. Commissioner Draper's friends said that he was just trailing along and did not realize what he was doing. His later attitude tends to confirm this supposition.

Commissioner Draper comes from Wyoming, where he was variously a clerk in the Union Pacific Railroad, business manager of a live-stock company, office manager of a coal and ranch business, a member of the state house of representatives, chairman of the Wyoming board of tax equalization, and chairman of the public service commission.

His activity on the public service commission gave him considerable background as to utility regulation, although on the small scale of Wyoming, when he received his Federal appointment. Although a Republican,



The Federal Power Commission

"THE Federal Power Commission is one of the least ballyhooed bureaus of the government, although it is constantly engaged in extremely important work. Its jurisdiction was enlarged last year to include not only water-power projects on navigable streams or affecting interstate commerce or public lands but also to include the interstate movement of electric energy."

thus supposedly belonging to a party which does not approve President Roosevelt's power policy, Commissioner Draper is nevertheless in complete harmony with the other members of the commission, most of whose actions and decisions are unanimous.

CLYDE L. Seavey, the newest member of the commission, is a protégé of Senator Hiram Johnson. He went to California as a young man and held various minor positions in Pasadena until 1915, when Hiram Johnson, then governor of California, made him chairman of the state tax commission. He later served as city manager of Sacramento and as a member of the state civil service commission. In 1923 he was appointed to the California Railroad Commission, which regulates utilities, a position which he held for eleven years. He achieved a certain amount of nation-wide reputation among those interested in utility problems when he won a valuation case which he carried to the United States Supreme Court.

When it became necessary for President Roosevelt to appoint to the Power Commission a Republican Senator Johnson suggested Mr. Seavey, and the suggestion was eagerly accepted. Thus although the Federal Power Commission is supposed to be a bipartisan body, all its members think about the same way on electric power matters. Commissioner Seavey is developing fast in his new job. He may emerge as the real "strong man" of the commission.

THE Federal Communications Commission, headed by Anning S. Prall, is divided into three major groups, broadcasting, telegraph, and telephone. Commissioner Eugene O. Sykes is chairman of the broadcasting division, and Commissioner Norman S. Case, vice chairman. Commissioner Irvin Stewart is chairman of the telegraph division, and Commissioner

George Henry Payne is vice chairman. Commissioner Paul A. Walker is chairman of the telephone division, and Commissioner Thad A. Brown, vice chairman. Commissioner Prall serves as the third and coördinating member of each division.

The commission as a whole, deservedly or not, is unpopular in all parts of the Capital. At its worst, it has suffered from political intrigue, personal animosity among its members, and lack of harmony. At its best there is lack of *esprit de corps,* caused partly by the newness of the commission and the fact that most of its members are new to the job. Only two, Commissioners Sykes and Brown, served together on the old Federal Radio Commission.

The three Republicans are Commissioners Case, Brown, and Payne, the latter a Progressive; but the commissioners do not split along party lines. Generally speaking, on broad issues, the conservatives are Commissioners Prall, Sykes, and Brown. Commissioners Walker, Stewart, and Payne are the Progressives, with Commissioner Case in the middle. These lines constantly shift back and forth.

THE chief problems of the commission at present are the allocation of radio wave-lengths, the investigation of the American Telephone and Telegraph Company, and the proposed merger of telegraph companies.

Its chief headaches to date are its collection of telegrams for the Black lobby committee, and the so-called Willard hotel incident. These and other things may lead eventually to a congressional investigation of the commission.

The Willard hotel incident got its name from the fact that A. Mortimer Prall, son of the chairman, claimed to have heard a conversation in the hotel in which it was said that a member of the commission was to be offered a bribe of $25,000 to straighten out station WNBF's difficulties with the commission.

The name of the commissioner to whom this $25,000 bribe was to be offered has never been mentioned, but it was Commissioner Prall's son who first brought the alleged incident to light, and Commissioner Prall appointed five of the remaining six members of the commission to investigate the incident.

A detailed report by the investigating committee was made and is printed on page 2308 of the *Congressional Record* under date of February 17, 1936. The report stated in conclusion that "while we conclude that there is no basis for the charges made, we keenly regret that we cannot fix the responsibility for them." It related that all of the persons in the room at the time Prall's son said he overhead discussion of the proposed bribe denied having made any of the statements which young Prall said he heard.

THIS incident and the commission's report upon it stimulated demands in Congress for an investigation. Representative Connery introduced one resolution and Senator Couzens introduced another ordering the commission to give the Senate all documents in connection with the case.

Chairman Prall is a former New York Congressman of Dutch ancestry whose progenitors were among the

first settlers of New York. He is serving a 7-year term ending July 1, 1942, and has been chairman of the commission since March 11, 1935. He is a Tammany Democrat and has the support of James A. Farley. Because of his congressional status he was promptly confirmed in spite of complaints that his selection was political. He lines up with the conservative members of the commission.

Commissioner Prall started out by attempting to run the commission with an iron hand. He at first insisted that members of one division should not concern themselves with the work of other divisions and became angered because Commissioners Stewart, Walker, and Payne interested themselves in radio matters. He was overruled and members now take an interest in all phases of the commission's work.

COMMISSIONER Sykes is one of the five original members of the Federal Radio Commission. He was first appointed by President Coolidge and served from the organization of that body on March 15, 1927. When the Radio Commission folded up, he was its chairman. He comes from Mississippi, where he started in politics early, and in 1916 was appointed a justice of the state supreme court by the then Governor Bilbo. He was reelected for a term which ended in 1925, whereupon he engaged in law practice until his appointment to the Radio Commission. He was originally sponsored politically by Senators Harrison and Stephens. When Stephens and Bilbo had their celebrated primary fight, Commissioner Sykes supported Stephens and won Bilbo's hatred. Bilbo made Commissioner Sykes' appointment to the Communications Commission a campaign issue and appeared before the Interstate Commerce Committee of the Senate to fight it. In choice Bilboese he charged Commissioner Sykes with dereliction of duty on the Radio Commission, with political activity, and with use of his radio influence in the Bilbo-Stephens campaign to secure radio hook-ups for Stephens.

Commissioner Sykes admitted visiting Mississippi during the campaign but denied political activity. It was shown that his name was used to secure a hook-up, but it was not shown that Commissioner Sykes authorized it. The Senate committee seemed to be impressed by the charges against Commissioner Sykes, but Senator Harrison championed his cause and the appointment was confirmed.

THAD H. Brown is an Ohio lawyer who got his start in public life by appointment to the Ohio State

¶ "THE [FEDERAL COMMUNICATIONS] *commission as a whole, deservedly or not, is unpopular in all parts of the Capital. At its worst, it has suffered from political intrigue, personal animosity among its members, and lack of harmony. At its best there is lack of* ESPRIT DE CORPS, *caused partly by the newness of the commission and the fact that most of its members are new to the job.*"

Civil Service Commission during the governorship of James M. Cox. For four years ending in 1927, he was the secretary of state of Ohio, and then for a year he was president of the Cleveland Radio Broadcasting Company. He was Mr. Hoover's preconvention campaign manager in Ohio in 1928, and in September, 1929, was appointed chief counsel of the Federal Power Commission, from which he resigned later that year to become general counsel of the Federal Radio Commission. He was appointed to the Communications Commission in 1932, and his confirmation was fought by Senator Couzens. One of his sponsors, Senator Couzens pointed out, was former Governor Cox, who had radio interests in Dayton and Miami on whose applications the commission would have to pass.

Senator Couzens' opposition to Commissioner Brown is said to have arisen from an incorrect association of Commissioner Brown with the old "Ohio Gang." He has taken very little part in politics recently and is affable enough to get along with any political party.

PAUL Atlee Walker has been conspicuous on the commission, chiefly because he heads the A. T. and T. investigation. He is a hard fighter and opposes the A. T. and T. with what amounts to almost fanaticism, but insists that he is not a "tough guy" and promises the investigation will be pure fact finding and not persecution.

The telephone company's investigator is an Oklahoman who was first a high school principal and then an instructor at the University of Oklahoma. For more than fifteen years he was connected with the state corporation commission—the body that corresponds with the public service commission in most states—either as counsel or commissioner. As counsel he conducted important litigation before the corporation commission, the Interstate Commerce Commission, and in the Federal courts. He represented the state in rate litigation, and proceedings which brought about reorganization of freight rates on many commodities. While serving as chairman of the commission, he initiated general investigations on natural gas, electric lights and power, telephone, and cotton gin rates.

From background and experience, Commissioner Walker is regarded as one of the best qualified men on the FCC. All his inclinations are toward strict regulation of communications companies. He does not by any means limit his interest to work on his own division of telephones.

DR. Irvin Stewart, the only doctor of philosophy on the commission, is the nearest thing to a brain-truster it has, but he dislikes to be called a brain-truster, so we will just call him a doctor of philosophy. He is the age of James M. Landis—thirty-six—and comes from Texas, where he served for four years on the faculty of the University of Texas teaching constitutional and international law. For two years he was assistant solicitor of the department of state, then was head, for a brief period, of the department of government in the graduate school of the American University.

He entered the treaty division of the state department in 1930 and was an expert on communication



Power Commission's Policy

"It avoids alike the extreme of state socialism on one hand and economic anarchism on the other. It does not go along with those who demand nationwide public ownership and operation of the generation, transmission, and distribution of electricity. It refuses likewise to be misled by those anarchistic captains of industry who resort to every device to escape regulation so that they may follow their own individualistic and destructive policy."

matters, chiefly in their international aspects, until appointed on the Communications Commission.

He is an advocate of strict regulation of all communication companies. He is highly independent and is not afraid to write a dissenting opinion when the majority does not please him.

He wrote the original draft of the FCC report recommending legislation permitting a merger of the two telegraph companies. Such a merger is essential, he believes, for the good of the telegraph business, because otherwise, in his opinion, while the telegraph companies fight to get business away from each other, their natural competitors, the telephone, the radio, and the air mail, are getting business away from both of them. He holds that international rates can be regulated through use of the commission's licensing power.

Commissioners Walker and Stewart are both Democrats, but the third so-called liberal on the commission, George Henry Payne, is a Republican. Like most of the other Republicans appointed to these regulatory commissions by President Roosevelt, he is a Progressive who supported Roosevelt in 1932. He was appointed to the commission with the endorsement of W. Kingsland Macy, who was tossed out of the chairmanship of the Republican Party in New York because he was too "radical." Commissioner Payne is very friendly with Senators Johnson, Borah, and Wheeler. He has had a long but rather unimpressive political career culminating in a primary fight in 1926 against James W. Wadsworth for the Republican senatorial nomination. He was badly beaten by Mr. Wadsworth; but the latter was beaten by Senator Wagner.

Commissioner Payne favors the

strictest regulation of all communications and deplores the fact that the radio is entirely in the hands of those interested in its commercial aspects. He has spent considerable time as a newspaper man and magazine writer in capacities as varied as music and dramatic critic of the *New York Evening Telegram* and political writer of the *New York Evening Post*. He lectured for one season on the history of American Journalism at Cooper Union. He was a member of the New York County Republican Committee for one year, and once candidate for the assembly. He managed the literary bureau for Henry L. Stimson when he ran for governor of New York in 1910; he was one of the New York campaign managers for Theodore Roosevelt and his Bull Moosers in 1912; he managed the campaign of George McAneny for president of the board of aldermen; he was floor manager for General Leonard Wood at the Republican National Convention in 1920, a long series of losing fights.

NORMAN Stanley Case, the seventh member of the commission, who holds the balance of power between the strict regulationists and the moderate regulationists, was formerly governor of Rhode Island when Roosevelt was governor of New York. They met on the executive committee of the Governors' Conference of the United States of which Commissioner Case was chairman from 1930 to 1932, and of which President Roosevelt was a member.

Commissioner Case had come up through Rhode Island politics from appointment by President Harding as U. S. Attorney for his state until in the fall of 1926 he was elected lieutenant-governor, and on the death of the governor, succeeded to that office. He was twice reëlected.

In the Governors' Conference he and President Roosevelt worked closely together in handling the unemployment situation, and the meeting of problems which arise from the poor, the handicapped, criminal, and the insane.

The former Rhode Island governor is the Hughes of the Communications Commission. He stands in the middle between the two warring groups, and he frequently speaks the deciding voice. He goes along slightly more often with Commissioners Walker, Stewart, and Payne than with Commissioners Prall, Sykes, and Brown. He considers the broadcasting division "the hot spot" of the commission, but does not favor government ownership of radio. He deplores the extreme individualism on the commission which prevents the members from working well together. He wants a reallocation of radio facilities, but does not favor radical disregard of established stations.

"The ideal way," he says, "would be to work out reallocation along purely technical lines; but we must not forget financial investments involved and the rights of established concerns."

COMMISSIONER Case owes his presence on the commission entirely to the friendship of President Roosevelt, who urged him to take the job. He never sought it.

All in all, the Federal Communications Commission probably has as much discord within itself as any agency of the New Deal.



After TVA—What?

THE author outlines what in his opinion is the worst that can happen to the private electrical industry as a result of the Supreme Court decision legalizing the sale of Muscle Shoals power.

By BANCROFT MITCHELL

THE public utility industry, which progressed excellently in 1935 on its own steam in the face of a number of extraneous obstacles, has witnessed, in the form of the Supreme Court decision relating to Wilson dam, the apparent legalization of one of these principal sources of interference. The ogre of government competition, or the so-called "rubber yardstick," seems to have been converted from a source of anxiety into a more formidable danger. It therefore appears to be an opportune time to make a brief analysis of the outlook for the utility industry, with particular reference to this most recent development.

On February 17th, the venerable Supreme Court, which has perhaps again restored itself to the good graces of a number of rather irresponsible critics by sanctioning a major Federal proposition, stated in no uncertain terms that the government had a right to build a dam at Muscle Shoals under war powers and the power of aiding navigation (Interstate Commerce), that it has a right to sell all the power which can be produced at the dam, and that it has the right to purchase (or build) transmission lines in order to reach a market for power. It is interesting to note that the government's argument in this case, which is one of the few important cases it has won, was presented by John Lord O'Brian, an assistant to Attorney General William DeWitt Mitchell of the previous administration.[1]

The decision definitely did not involve certain questions which affect the public utility industry; namely, the constitutional right of the government to acquire or operate local or urban distribution systems, to enter other proprietary businesses such as

[1] Mr. O'Brian is now practicing law in Buffalo. Former Attorney General Mitchell is senior member of the law firm of Mitchell, Taylor, Capron & Marsh, New York City.

manufacturing as a means of utilizing the power, or its right to loan money to municipalities for the acquisition of distribution systems or the construction of competing systems.

The most important question is, does the decision legalize the construction of other hydroelectric projects by the government? Contrary to the opinions of some utility executives printed in the papers, the answer seems to be that the government now has fairly clear sailing as far as production of hydro power on navigable streams is concerned. For, although this specific case involved only its right to construct this particular dam and to sell the power therefrom, it seems manifestly to validate the construction by the government of any dam where there is a *reasonable factual basis* for the claim that navigation is improved, or that national defense is served; and to authorize the sale of whatever power it may generate at such dams.

ALTHOUGH the writer was practically convinced by an eminent constitutional lawyer a year ago, in January, 1935, that the outcome of this case would be about as it was, he was nevertheless surprised at the emphatic and apparently sweeping nature of some of its passages. For instance, the reader's attention is called to certain statements of the court which indicate to what extent navigation must be affected to constitutionally justify construction of a dam.

The court noted that "the Wilson dam project adopted in 1918, gave a 9-foot slack water development for 15 miles above Florence, over the Muscle Shoals rapids," and that "Congress, in the Act of 1930, adopted a project for improvement of the main stream for a navigable depth of 9 feet." But the following statement of the court seems significant in indicating what standard may be used in determining if navigation is improved: "While, in the present condition, the Tennessee river is not adequately improved for commercial navigation and traffic is small, we are not at liberty to conclude either that the river is not susceptible of development as an important waterway, or that Congress has not undertaken that development, or that the construction of Wilson dam was not an appropriate means to that end." In other words, if there is a reasonable factual basis for the claim that navigation is improved, this is sufficient constitutional justification for construction of the dam.

Although it is apparent to the layman that very limited commerce will be possible on the Tennessee river, the requirement of improvement of navigation is nevertheless satisfied. In this connection, the writer recalls with interest a question reported to have been asked by Justice Butler, during the presentation of the government's argument, as to whether the level of the stream would be sufficiently raised to permit the use of a canoe. As a matter of fact it does not appear that very much more than such improvement is necessary.

It appears at least that the court will not seriously dispute the opinion of Congress as to what constitutes improvement of navigation, provided there is any reasonable factual basis for such a claim.

THE reader's attention is also called to that part of the decision which dealt with the right of the government to build Wilson dam for defense purposes: "While the district court found that there is no intention to use the nitrate plants or the hydro-electric units at Wilson dam for the production of war materials in time of peace, it stated that the maintenance of said properties in operating condition and the assurance of an abundant supply of electric energy in the event of war, constitute national defense assets. This finding has ample support." It might be inferred from this passage that the government could construct other dams in time of peace in order to assure an abundant supply of power in time of war. However, the writer would prefer not to rely on such a doctrine, for this particular dam was built during war times to produce nitrates (which it is understood can now be produced more cheaply another way), and it seems unlikely that even our present administration would adopt a broad policy of building other dams for defense purposes as a pretext for producing power. However, as mentioned above, the navigation doctrine seems to provide the government with ample license.

We proceed to the court's treatment of the question of the right of the government to sell power generated at constitutionally constructed dams. An important principle was enunciated which should help considerably to disillusion those who believed that the court might restrict generation of such power within certain defined limits. In stating that the government owns the power at a dam constructed under a constitutional right and that it may dispose of the electric power generated, it said: "We find nothing in the Constitution which imposes the limitation that there is authority to dispose of his energy only to the extent that it is a surplus necessarily created in the course of making munitions of war or operating the works for navigation purposes; that is, that the remainder of the available energy must go to waste." In other words, the court stated the important doctrine that there are no constitutional restrictions upon generation of power at such dams, but that, once the dam is under way, and the government has taken possession of the water-power site, it may make such additional improvements as are appropriate to develop all the water power available. It can be seen, therefore, that the production of power may easily eclipse in importance the navigation function of the dam.

IN discussing the foregoing question, the court said "the government has no less right to the energy

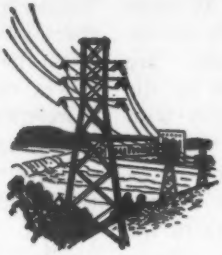
¶ "IF *we may rely upon the government's adherence to the principle . . . that it does not claim the right to sell power at retail, we might assume that the government will not attempt retail distribution itself on a large scale. However, the administration's record of adherence to its campaign pledges is no source of confidence in this respect.*"

thus available by letting the water course over its turbines than it has to use the appropriate processes to reduce to possession other property within its control, for example, oil." The references to oil, and in other passages to the right of the government to sell minerals and coal over which it has control, leads the writer to digress briefly from the subject of power, for these references seem to have interesting implications. It might appear that the government could constitutionally enter a number of such businesses on a large scale by acquiring property for national defense purposes and then by exercising its rights to dispose of the products of such property. On the other hand, we should probably not hastily assume such an implication. For one reason, mentioned previously, the writer still has enough faith left in humanity to think that even the present administration probably would not pursue such a broad, general program with national defense as an excuse. Also, there seems to be some question that the acquisition in peace time of such properties on the basis of national defense could be justified if the government proceeded to deplete by sale the assets which it allegedly bought to conserve for defense purposes. In the case of power, such depletion does not occur, for the water producing the power is a constant flow, and the sale of the power is in order to prevent waste.

In treating the final question as to the right of the government to purchase (or build) transmission lines, the court said "we know of no constitutional ground upon which the Federal government can be denied the right to seek a wider market than selling the surplus energy at the dam to the only apparent purchaser, the Alabama Power Company," and authorized it to buy the transmission lines extending 50 miles from the dam to a populous section. As mentioned above, the case did not involve the right of the government to enter the field of retail distribution, which it has not so far attempted in its own right.

If we may rely upon the government's adherence to the principle enunciated by its attorney in this case, Mr. O'Brian, that it does not claim the right to sell power at retail, we might assume that the government will not attempt retail distribution itself on a large scale. However, the administration's record of adherence to its campaign pledges is no source of confidence in this respect.

It is believed that enough has been said above to illustrate the writer's conviction that the government may lawfully build dams for the ostensible purpose of improving navigation, and dispose of all the available power. It seems highly probable that the decision will give new impetus to such Federal developments, for there is no reason to suppose that the government will be more reluctant to use the pretext of improving navigation as a basis for building other dams than it has been in the case of the TVA to date. The fact that, according to regular and not governmental systems of accounting, steam power produced in a modern plant not too far removed from its coal supply can be cheaper than hydro power when fixed charges



Irrigation and Hydro Developments

"It is understood that irrigation alone may not be a lawful reason for Federal hydro developments, unless the irrigation may be connected with the improvement of government lands. However, navigation seems to give the administration broad enough scope, and it does not seem likely that, if the government should wish to utilize irrigation as a basis for legalizing a hydro project, its conscience would forbid it from purchasing land in the area of the project to satisfy the requirement."

on the investment are taken into account, seems to have little bearing on the question (as an example, Southern California Edison can produce power cheaper in Los Angeles at its most efficient steam plant than the cost of power transmitted from Boulder dam).

It is understood that irrigation alone may not be a lawful reason for Federal hydro developments, unless the irrigation may be connected with the improvement of government lands. However, navigation seems to give the administration broad enough scope, and it does not seem likely that, if the government should wish to utilize irrigation as a basis for legalizing a hydro project, its conscience would forbid it from purchasing land in the area of the project to satisfy the requirement.

Utility companies in a number of areas seem fairly safe from Federal power. What may be expected to happen to concerns located in the areas of existing or contemplated government projects? This question depends mainly on how the government can market the power, for there seems to be little doubt that it has a fairly clean slate to produce it at navigable rivers.

Let us assume for present purposes that the government has no right to distribute power at retail, or if it does, that it will not attempt to enter the business of retail distribution. It must therefore sell its power at wholesale to four principal types of customers—municipalities and municipal power districts, industrial customers, power companies, and rural groups not now served.

Let us first discuss the possibility of sale to municipalities. As most power company franchises are not exclusive, municipalities which are financially able may engage in the power business in competition with private companies. The principal danger seems to be that the sale of energy to municipalities may be coupled with Federal loans to them for the condemnation of existing private distribution systems or the erection of competing systems. If the government cannot be restrained from making these loans, most of which have been temporarily enjoined in the courts pending a final decision, the effect might be almost as bad as if the government were to enter the business of retail distribution itself. It is possible that the government may be prevented from making such loans on the grounds that it would be interfering with state's rights by attempting indirectly to regulate rates. However, such an interpretation by the court seems rather unlikely if the avowed purpose of such loans is to stimulate employment, or to give financial aid to municipalities to enable them to carry out some lawful function.

THE case decided in the Fourth U. S. Circuit Court of Appeals on February 22nd throws some light on the government's apparent right in this field. This decision ruled against the Duke Power Company, which sought to restrain construction with PWA funds of a publicly owned and operated hydro plant at Buzzards Roost, Greenwood county, S. C. The opinion stated that the Public Works Act is constitutional, and that, while the construction of local projects might not be valid individually, an objection could not be sustained against them as part of a great general program for general welfare.

The opinion continued to say that "Greenwood county is but an agency of the state of South Carolina, and remains subject to control by that state in the management of its power project. The rates to be charged by public utilities remain a matter of state control. All that the administrator proposes to do is to make a loan and grant to the county to enable it to engage in an enterprise, which, as a subdivision of the state, it has been given by the state the right and power to engage in. In other words, the powers of the state will not be limited, but the state will be furnished the means of exercising the power it already possesses, *i. e.*, "the power of engaging in public business for the benefit of its citizens." The decision also stated that no legal rights of the Duke Power Company would be infringed by the action of the commissioner of public works, for "competition by a county or municipality violates no right of a public service corporation doing business therein, which, as in the case of the plaintiffs here, has no exclusive franchise."

MANY municipalities which in the trough of the depression needed financial assistance can now finance themselves into the power business. Altogether, the progress to be made by the Federal government in selling power to municipalities, barring an adverse decision concerning PWA loans, would therefore seem to be obstructed only by possible adverse sentiment of the electorates where refer-

enda are required, by the ability and statutory authority of municipalities to finance themselves or pledge their credit for PWA loans, and other miscellaneous factors. Judging from the attitude of the people in such cities as Knoxville, Chattanooga, Memphis, and Portland, Or., the Federal government may find a substantial number of municipal outlets.

We may also expect Federal power to take away some of the industrial customers of private companies. Such a development would be particularly adverse to such companies as Alabama Power and Carolina Power & Light, which have relatively large wholesale loads.

Sales of Federal power to private companies probably would be the least injurious form of disposal of this energy, for it would involve only the temporary burdens on the power companies of taking more power than is necessary (for example, Southern California Edison). Such power would be sterilized as a source of competition for business, and the companies could attempt to build their loads up to it.

The worst side of the picture has probably been outlined above in a general way. There are some more encouraging aspects to the situation.

In the first place, where private companies find themselves facing certain competition in particular municipalities, they can choose the alternative of selling their properties rather than of fighting the competition. In such instances, the private companies would presumably receive such prices for their properties as to enable the bondholders to come out intact, provided the properties are not carried at inflated values (and here is work for the investment analyst), and provided private systems should not be crippled by the purchase only of the heart of their business, which would leave them the less profitable outlying areas. One case the writer has in mind is that of Knoxville. The price offered for the properties, although less than net book value, was not grossly unfair, and was sufficient to cover the bonds. If private companies should sell out in this way, the net result would be a transition from private operation to municipal operation, without disastrous effects upon bondholders, but with the probable effect of wiping out thin equities held by holding companies, and with some possible adverse effect on preferred stockholders, depending upon the circumstances of each case.

Another encouraging aspect to the situation is the still favorable trend of power output. If output increases for several years at the national rate of increase of about 11 per cent in the week ended February 8, 1936, pri-

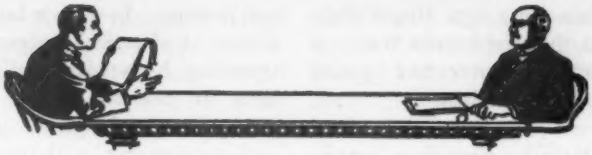
¶ "If *output increases for several years at the national rate of increase of about 11 per cent in the week ended February 8, 1936, private companies will be able to absorb large amounts of additional power without severe effects upon earnings, although increases in earnings would be definitely retarded.*"

vate companies will be able to absorb large amounts of additional power without severe effects upon earnings, although increases in earnings would be definitely retarded. For instance, in the four states of Alabama, Georgia, Tennessee, and Mississippi, where the presently projected (but not ultimate) increase in energy supply is about 30 per cent as the result of TVA dams, it is not unlikely that private companies, through intensive salesmanship and merchandising of appliances, and aided by continued favorable business activity, could entirely absorb such excess power in a few years. Many household appliances have not saturated their markets. For example, Samuel Ferguson, president of the Connecticut Power Company, points out that an average customer in a completely electrified home, using electricity for lighting, radio, washing machine, cooking, toaster, refrigerator, hot-water heating, and vacuum cleaner, would require about 700 kilowatt hours monthly, or 8,400 kilowatt hours annually, as compared to the average domestic consumption of about 700 kilowatt hours annually in 1935. While we do not mean to assert that average consumption of electricity can be brought to such a level in a short time, this fact serves to illustrate the possibilities of load development. Federal projects will compel intensive load building.

ANOTHER important element of encouragement is that a quite definite stimulation of consumption has been found to result from reduced rates. Therefore, while lower rates alone cannot be expected to bring about materially increased consumption, they will help. In the twelve months ended September 30, 1935, while average revenue per domestic customer declined 3.9 per cent, average consumption rose 5.9 per cent.

In conclusion, in so far as generalities can be attempted, the writer believes that Federal power development will pass through two phases. First, the government will fight with private utilities for markets. Federal acquisition of outlets will be a slow process, due to such factors as the opposition of private companies and litigation instituted by them, the time required for Federal surveys for PWA loans, the necessity of conducting referenda, and other factors. The results will be unfavorable to private companies affected, but will probably not undermine the investments of bondholders as a whole because the private companies will choose to sell their properties rather than to be subjected to disastrous competition.

The second phase will presumably come in a few years, after utilities have been able to develop their loads through strenuous efforts and can utilize more power; when the government may become rather tired of the struggle for markets, and when its inclination to subsidize municipal markets with grants and loans shall have subsided. This phase will consist of an increasing absorption of power by the utilities, to whom the government will probably sell a large part of the power as a way out. Such a situation might ultimately benefit the utilities, for they would have access to dump government power, produced at the expense of the taxpayer. A change of administration in four years would doubtlessly hasten the second phase.



The Migratory Trailers and the Tourist Camps

What, if anything, should the government do about them? Is the tourist camp a public utility?

By SPENCER D. PARRATT and ALLAN FLATTERY

Even had the railroads regained all of the passenger mileage attributed to busses and airplanes in 1935, they would still have had 3 or 4 billions less than they operated during 1921. There has been an actual net loss of commercial passenger transportation during the last fourteen years. But this does not mean that the American national appetite for travel has diminished. As a matter of record, total passenger mileage increased by 380 per cent during the interval. The reason is, of course, that automobiles entered into the scheme of things to show an increase from 75 billions in 1921 to 395 billions of passenger miles last year.

There can be no question but that the modern automobile combines unequaled speed, convenience, and adaptability in transporting humans. The tradition of the frontier, with reminiscent restlessness, may favor the automobile over transportation through modes limited by fixed routes, time schedules, and expensive, inconvenient stopping places. The lethargy of operators of older forms of transport in making necessary adaptations to growing competition may be important in explaining the present dominance of automobiles. The intricate network of concrete and improved roads have added to taxation, but make added appeals to the car owner. Although permanent homes become an increasing financial burden when a large share of family income must go to maintain an automobile, there are numerous Americans who hold fast to their cars when final choice of home or car must be made. But, whatever the causes, meandering auto hordes are challenging the foundations of our established national habits.

According to the American Automobile Association, some 37 million people vacationed in 11 million cars during 1935. They spent 4 billion dollars. Service stations and garages took 750 millions for gasoline, oil, and repairs. Somewhat more went for food and 500 millions was spent for amusements and refreshments. The lodging bill for last year's vacationers was a fourth of the total, or a billion

dollars. Two years ago, Roger Babson asserted that the tourist trade, in value of money turnover, had equaled the iron and steel industry.

WHEN auto touring first became a national sport following the World War, communities made it a public function to provide camping grounds. At such places, usually in some neglected corner of a public park, the traveler might pitch his tent, build his camp fire, wait his turn at the public water tap and comfort station. But it was the introduction of the permanent type of tourist cabin or cottage that marks the modern tourist camp era. Cheapness and convenience made a new marriage. Creature comforts found a ready market and it is not surprising that signs over tourist camp entrances, or along highways, announced beds with nationally advertised makes of springs and mattresses.

Developing in the West and Southwest, but rapidly spreading throughout the country, increased permanency settled over the new industry. Tourist camps acquired a new appeal and new and romantic names. If Ben Jonson could travel in the Far West or in Texas, he would be at home in places bearing titles from the taverns of Old England, not to mention places evidencing new realms of imagination. Amateurish landscaping has introduced an unstudied folk-art, but the rows or streets of cottages provide an inescapable atmosphere of barracks.

There are dozens of tourist camps or "courts" in the West or Southwest constructed of brick and concrete. Many have hardwood floors, papered walls, rugs, pictures, curtains, overstuffed furniture, and sometimes central heating. In-a-door beds and sufficiency of electrical gadgets make the traveling housewife realize that she lives in modern luxury. The best places boast of individual baths for each cottage unit, with tub and shower in their proper tile setting. What more can life offer to wandering Americans?

SO scattered is reliable information concerning the number of tourist camps that guesswork must enter into any computation. A few years ago the American Automobile Association estimated the number between 15 and 18 thousand. There is general agreement that significant expansion has occurred since. Some place the current figure as high as 30 thousand, but 25 thousand seems a more likely total. Distributed among these camp units are upwards to 250 thousand individual cottages or cabins, with shelter facilities for some 700 thousand guests.

The East has the least developed tourist camps and the fewest of them in proportion to population. The principal reason is that the "tourist home" is a successful competitor. The great number of large old farm houses left over from a day when families and incomes were larger lies at the bottom of the development of this crop of little hotels. But the rapid improvement of the camp cottage, with its ability to keep passenger and automobile in closer proximity and thus simplifying the stop over, seems to threaten the future of tourist homes. Careful observers feel that the improvement in cottage camp facilities will finally undermine the hotel as a factor in automobile touring.

A survey of one thousand camps was recently made by an organization publishing a trade journal styled *Tourist Trade*. Sixty per cent of the cabins were found to have running water, 61 per cent of the camps provided modern plumbing, and 25 out of a hundred offered cooking facilities. Well over half catered to year-round trade. A study of charges made in ten thousand camps showed that a popular price of one dollar per night per person had become standard in camps offering modern equipment, with cheaper rates in less progressive units. Some camps make off-season price concessions to encourage business. Others maintain "suites" ranging in price to $8 or $10 per night.

At present the tourist camp business is almost entirely in the hands of independent small business men. Publicly owned and operated units have either adopted the same scale of charges for equivalent services, as private camps, or have lost their earlier proportion of more desirable traffic. Relatively few publicly owned camps have been able to stand the rapid pace of competition. Such an exception is the camp maintained in Washington, D. C., by the Department of Parks and Recreation.

The tourist camp business has become mature enough to provide trade associations. An outstanding example is the United Motor Courts in California. This organization has done much to bring higher standards and greater uniformity of service among members and is one of the basic factors in the forward position of California tourist facilities when compared to most other parts of the country. The Texas Motor Court Association deserves mention. The largest, but less compactly organized than the Texas or California groups, is the Tourist Camp Trade Association with fifteen hundred members scattered over eighteen states. Quite a number of smaller organizations exist, usually in the nature of state or regional associations.

There is constant pressure for greater uniformity and standardization in the tourist camp industry which encourages the development of "chain-type" management. Some strings are now in operation, particularly in the West over most toured routes. One large hotel company, operating a chain of hotels, is considering a parallel series of camps to function under articulated management. At least two important oil companies are contemplating the addition of camps in connection with well-located service stations. Some ambitious corporate attempts are brewing. From the viewpoint of the tourist, it makes little

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difference whether uniformity is attained through voluntary coöperation of independents, or through unified management.

BEFORE the issue of chain type versus private independent management is settled a new factor may upset the balance of forces involved. This growing threat to the established camp trade is the elaborate automobile trailer. A leading manufacturer of these cumbersome appendages keys his sales appeal as follows:

> Why be tied down to any one spot? Hook an XYZ trailer coach to your car and GO . . . south in the winter—west in the spring—north in the summer. . . .

There are companies offering prefabricated parts to encourage the mechanically talented car owner to assemble his own contraption at minimum costs. Completed and ready to go, trailers start at a price range under $300 and special jobs may consume several thousands. A rapidly expanding market has caused a leading automobile manufacturer to embark upon quantity production this year and a significant number of automobile sales agencies are adding trailers as side lines.

These miniature "homes on wheels" are offered as more than vacation escapes from the duties of permanency. Already they have become the sole abodes of a new species of gipsy Americanus. In the warmer sections of the country the approach of winter heralds the congregation of trailer encampments. So numerous had they become last winter that they moved in caravans in search of likely locations. Scores and even hundreds of trailer units may assemble under favorable conditions. Sometimes they exercise squatters' rights and form communities of their own, more frequently they seek out tourist camps catering to their like.

More enterprising camp operators offer special terms for "space" including camp policing, garbage collection, and other privileges. Some even make provision for extension of electricity, water, and telephone service to equipped trailers. Not uncommon is the grant of parking space gratis, with reliance upon engendered good will to cause purchase of other camp offerings.

WHO lives in trailers and tourist camps? The assumption that the camp business is essentially a tourist trade is not commensurate with the facts. There are five principle types of such dwellers, exclusive of tourists. The tourist business is greatest, especially in summer. But the others seems to be on the relative increase.

Next to tourists the largest class is the migratory worker pursuing work from place to place and often without permanent habitation. A second type is the shiftless ne'r-do-well who lives by hook or crook and finds the life of a gipsy appealing to his tastes. He works occasionally, but does not bother to find it until the spirit calls for a shift of scenery. A third group is composed of retired capitalists, or business men taking extended vacations. A dose of the wanderlust may be a cure for long years at the grindstone. Traveling salesmen, finding the camps a convenience in handling sample cases, constitute a fourth group.

In cities, and particularly in the



The Government and Tourist Camps

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more permanent and better equipped tourist cottages, a fifth class of regular city dwellers contribute thousands of occupancies to off-season trade. People struggling to keep off relief or undertaking marriage under handicap of very small incomes turn to such offerings until times improve. But the democracy of the tourist camp may be less real than simple enumeration of contributing population groups might indicate. Class prejudices are well in evidence under such conditions and an old timer readily can ascertain the status of a newcomer without great difficulty. It may be significant that during the last few years a number of "courts" have been developed as "taxpayers." Thus the tourist camp competes with the hotel during the vacation period; with the kitchenette apartment in other seasons as well as maintains a flavor of its own at all times.

How many people inhabit such places? If the American Automobile Association figure of 37,000,000 vacationers is used and an assumption made that 15,000,000 made use of cottages or trailers for an average of seven nights during their vacation expedition we reach the conclusion that some 300,000 are housed, at an average time, in camps and trailers. The reasonableness of this figure is somewhat substantiated by the fact that there are at least a quarter million automobile trailers registered in the country and a large proportion are known to be used for appreciable percentages of each year. There are probably in the vicinity of 50,000 to 75,000 off-season habitues of camp cottages. Probably an estimate of half a million camp and trailer dwellers at an average time would not be far amiss. Of course, during the height of vacationing the number might easi-

ly triple this figure, but there would be a lag during most of the year.

What, if anything, should government do about the tourist camp and trailer problem? If left alone the transient nature of camp life tends to evolve unorthodox moral standards. Compactly arranged masses of nondescript humanity present extraordinary health hazards. Nor do camp morals and health exist independently from the communities of settled home-dwellers among which they exist. A particularly complex, and pressing, problem centers around the education of camp follower's children. Should the permanent community residents provide educational facilities for wandering foreigners? Should the state government having jurisdiction shoulder the burden? Should it be passed up to the Federal government as of national importance and involving interstate commerce? Should the taxing system be modified to tax the trailer and camp follower out of existence, leaving only the legitimate vacationer? If so, how? These questions are not academic. Already a number of states are experimenting with one or more of the problems involved.

TOURIST camps and trailer settlements are probably of the nature of public utilities. Certainly the camp is of this description, although the status of the trailer community is questionable. Trailer and cottage camps are subject to the power of state governments to regulate health and safety. It is to be expected, then, that some states treat cottage or cabin camps as a form of inn or hotel and regulate accordingly. Registration requirements for tourists are common, usually extending to registration of the vehicle as well as names and residences of tourists. A few states extend "innkeepers' liens" to protect operators of tourist camps against unscrupulous wayfarers.

At least seventeen states have enacted laws specifically relating to tourist camps.[1] Some of these laws are very general in their terms and cover few aspects of the problem; others are specific in their application to a wide variety of details. There is a noticeable tendency that tourist camp operators should obtain licenses as condition to their entering the business.[2] Usually such licenses are granted for a single year and only after an opportunity has been allowed for inspection. As with hotels and inns, little attempt is made to curtail the right to enter the business through governmental determination that public convenience or necessity will be served. Such matters are left to the laws of supply and demand through open competition. Licensing is usually to enforce standards of public health and sanitation. More complicated laws, such as in California, include features to insure safety of patrons through building specifications. Particular requirements of safety equipment or devices are sometimes made, as in Kansas, where nonflexible connections for gas stoves are required.

[1] Arizona, California, Florida, Indiana, Kansas, Maine, Minnesota, Mississippi, Montana, New Hampshire, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington.

[2] California, Florida, Indiana, Maine, Minnesota, Montana, North Dakota, Oregon, Rhode Island, South Dakota, Vermont (optional).

SHOULD tourist camps be regulated by administrative agencies or by regular police and prosecuting officers through ordinary court procedure? As regulation advances in volume and in detail there is clear evidence toward the use of administrative agencies. Of the seventeen states having statutes specifically relating to tourist camps, thirteen rely upon administrative enforcement in whole or in part. Eight states make use of regularly constituted state boards of health;[3] North Dakota relies upon the state food commission, South Dakota on the department of agriculture, and California on the division of housing and sanitation in the department of industrial relations.

Some states rely exclusively upon local enforcement officials but there is a fundamental difficulty in control through local government units because tourist camps often exist in unincorporated areas having no governmental facilities to meet the special problems of health, safety, and morals. Administrative bodies may not be limited to the granting of licenses to operate camps. They may have authority to issue orders in the forms of rules or regulations to attain standards outlined by law[4] and to revoke licenses[5] or impose other penalties, subject to court review, for violation. One state[6] has undertaken to regulate "tourist camp associations" which certify camps as meeting association standards.

SHOULD states fix high or low standards for tourist camps in relation to health, safety, morals, or possibly æsthetic appearances? There would appear to be little valid objection to a reasonable use of governmental power to enforce quite a high standard of public health, safety, and morals, as in the case of inns, hotels, and boarding houses. Some significant results may come from increasing standards by legal prescription. The public, including both residents of communities in which camps are located and their wandering patrons, are entitled to clean, sanitary, morally and physically safe shelter, and associations. Æsthetic beauty in the form of parked and landscaped court yards with the latest in billboards and "hot dog" stands may seem less vital to the common

[3] Indiana, Maine, Minnesota, Montana, Oregon, Rhode Island, Utah, Vermont.

[4] Indiana, Maine Minnesota, Montana, North Dakota, Oregon, South Dakota, Vermont.

[5] Florida, Indiana, Maine, Minnesota, Montana, North Dakota, Oregon, Rhode Island, Vermont.

[6] New Hampshire.

¶ "TOURIST *camps and trailer settlements are probably of the nature of public utilities. Certainly the camp is of this description, although the status of the trailer community is questionable. Trailer and cottage camps are subject to the power of state governments to regulate health and safety. It is to be expected, then, that some states treat cottage or cabin camps as a form of inn or hotel and regulate accordingly.*"

good. But, undoubtedly, the continued improvement of tourist camps is necessary if the industry is to maintain and increase its present importance.

In California, where standards are exceptionally high, the tourist camp has become a real competitor with the hotel and apartment house. It has met conditions imposed by law and has gone beyond to attract a wider and more prosperous clientele. Although conditions throughout the county are not identical with those in California, there is reason to believe that the tourist camp trade will gain rather than lose by improving service and guest appeal even though governmental power be used to attain these objectives.

THE problem of controlling tourist facilities is acquiring new importance in light of the tendency of governments to make appropriations for travel advertising. At least twelve states made sizable appropriations last year for the attraction of a greater share of the tourist billions to their retailers and producers. A total of $700,000 was appropriated by these twelve. New York state made its first appropriation of the kind, a sum of $100,000. Those who advocate such appropriations contend that not only the tradesmen benefit, but that the state is repaid through increased gasoline taxes and indirectly through general tax collections and that civic pride is heightened through emphasis upon the existence of local historic and scenic landmarks.

Practically every state, and almost every community, can find something to offer tourists. Maine used more newspaper advertising and magazine advertising last year than previously. It registered an increase in tourist business of 20 per cent and this is largely attributed to advertising activities. Maine does not rely entirely upon government aid for publicity of its vacation virtues. The other New England states join in the New England Council and financial support is drawn from both governmental and private sources. The expenditures of this organization exceed a quarter million dollars annually.

FLORIDA has patterned after New York in constructing a traveling exhibit designed to stimulate tourist trade. Ohio, Pennsylvania, Florida, Wisconsin, Michigan, and Kentucky are experimenting under stimulation from state funds. Some cities follow the same course. Many private organizations exist to further state attractions for tourists. The All-Year Club of California is outstanding, having a budget of $167,000 last year. It is estimated that California's tourist business was 35 per cent greater in 1935 than in 1934 and that outside-of-state travelers spent $235,000,000 in the state. A high percentage of western states have promotional organizations, such as the Pacific-Northwest Tourist Association, the Montanans, Inc., the Evergreen Playground Association in Washington, the Ozark Playground Association of Missouri, and the Greater North Dakota Association. One is hardly surprised that the organizations interested in increasing their share in the tourist billions are backing a proposal to create a National Travel Bureau to act as clearing house for tourist information. A bill

to accomplish this purpose has already been passed by the United States Senate and is scheduled for consideration in the House before Congress goes home for the summer.

As tourist camps develop they compete for an ever increasing share in the expanding tourist business. When states, cities, semi-public and private groups spend time and money to attract tourists to particular localities they have a reasonably clear interest in seeing that their "guests" obtain fair and reasonable treatment. Thus it appears that the tourist camp may yet be subject to increased governmental control if rapidly improving standards are not generally self-imposed by private operators.

The experience of the Far West and the Southwest indicates that increased stringency of governmental specification may elevate camps into new levels of competition for tourists and prove a boon to the industry without materially decreasing the ingenuity and self-reliance of private management.



Odd Aspects of Electric Power

WHAT makes soap clean? This is the simple question investigated by W. M. Urbain and L. B. Jensen of the chemical research laboratory of Swift & Co. in Chicago. The electric industry will be interested to know the answer in part as follows:

> "Its property of electrifying. The discovery of this hitherto unknown property of soap to electrify materials, and in this way to clean, is another step in the direction of a more complete knowledge of the action of soap."

Another puzzle about electricity is how it gets inside of the human body. A recent report to the American Chemical Society alleges that in the human body are billions of giant protein molecules which function as dynamos. Heretofore these proteins—the "lean" of the body—were thought to be electrically neutral like fats and sugars. Instead, the report states, they are electro-magnets carrying complex electrical charges. When they move they create momentary electric current like the armature of a dynamo.

Electricity's effect on plant life was the subject of a recent discussion of plant pathologists in Fresno, California. Last year, A. H. Foster, a landscaper, happened to plant two rows of sweet peas near a power substation. One row was directly under a battery of lights which burned all night. The other row was shaded. In four months, the illuminated plants were six feet high. The row that remained in the dark at night was only four inches high. Now the superintendent of the power substation, E. R. Banks, is interested and he and Foster are planting things all over the place in an effort to determine the effect of electric light on various forms of plant life. Incidentally, in Alaska, where there are twenty-four hours daylight in the brief summer, some crops are sown, grown, and harvested sometimes within three weeks.

Financial News and Comment



By OWEN ELY

Standard Gas Reorganization

STANDARD Gas & Electric Co., principal holding company of the Bylesby system, went under § 77–B last September due to inability to meet maturity of about $24,000,000 notes, the majority of the holders of which had agreed to an extension plan. The company had covered its interest charges by a substantial margin throughout the depression, interest charges and amortization being covered 1.45 times in 1934 (on a system basis, the showing was less favorable, with fixed charges earned only about 1.11 times excluding unpaid subsidiary preferred dividends). The system's current position at the end of 1934 had been favorable, with cash assets of over $25,000,000 (about the amount of the current liabilities).

It is difficult to appraise the present situation accurately, since no official report for 1935 has yet been issued. According to figures published by one of the financial services, and checked with another source close to the company, a little under $5 per share was probably earned on the prior preferred stocks (on a consolidated system basis) last year. With regard to current earnings and the outlook for 1936, reports are somewhat conflicting. A published letter from the protective committee representing the notes and debentures, dated June 8, 1936, stated "earnings of the company as reported by it are continuing . . . at approximately the same rate as for 1935, and the committee believes that, in the absence of untoward circumstances payments of interest on notes and debentures should continue during the reorganization." It is not clear whether this refers to the earnings on a corporate or system basis, but presumably the former was intended, since available data on the system earnings would seem to indicate fair-sized gains this year as compared with 1935. The system's electric output in the week ended July 4th showed a gain of 16.6 per cent over last year, and the twenty-seven weeks ending the same date show an average gain of over 11 per cent, despite a two-weeks' setback during the flood period in March.

ABOUT half of system net earnings are from Philadelphia Company, whose subsidiary, Duquesne Light Co. of Pittsburgh, is naturally influenced by the extreme fluctuations of the steel industry, which has recently been operating at a substantially higher rate than last year (although currently menaced by strike possibilities). The Philadelphia Company reported for the twelve months ended May 31, 1936, an increase of 4 per cent in gross and 21 per cent in net, which seems very favorable in view of the substantial rate cuts for Duquesne Light Co. (Pittsburgh), its principal subsidiary. Other properties in the system reported results for the twelve months to May 31st as follows: San Diego Gas & Electric Co., a gain over a year earlier of 9 per cent in gross and 18 per cent in net; Oklahoma Gas & Electric Co., an increase of 6 per cent in gross and 25 per cent in net; Mountain States Power Co., a gain of 12 per cent in gross and a sharp rise

in net from the low level of a year earlier; Louisville Gas & Electric (April) an increase of 7 per cent in gross and 20 per cent in net; Market Street Railway, a gain of nearly 3 per cent in gross and a sharp rise in net. Northern States Power Co. for the twelve months to April 30th reported an increase of 4 per cent in gross and about 1 per cent in net income. This showing reflects rate cuts of 10 per cent and 7 per cent in Minneapolis and St. Paul respectively, effective this year. Wisconsin Public Service Co. for the twelve months to May 31st reported an increase of nearly 6 per cent in gross and 46 per cent in net.

With the exception of Duquesne Light Co. and two smaller companies the system has not yet undertaken any large program of refunding operations, presumably awaiting reorganization of the parent company under § 77–B. Substantial economies may therefore be possible within a year or so following reorganization, as many of the subsidiaries, such as Northern States Power Co. (Minnesota), have had a favorable record.

The plan of reorganization provides for extension of the two note issues in default to October 1, 1940. Otherwise the indebtedness and equity interests will remain unaffected.

As previously reported in this department, a group which included some new interests recently purchased control of Standard Power & Light (by acquiring the equity pledged by U. S. Electric Power) and are reported to be seeking early court approval of the Standard Gas reorganization plan, already accepted by over 70 per cent of the bondholders affected. September 1st has been set as the deadline for filing claims against the company by the Federal court in Wilmington, Delaware.

However, it is by no means certain that reorganization will be effected this year. According to one report, the company may decide to stay under § 77–B until the constitutionality of the Utility Act is decided, particularly as the new tax law is said to permit a company under § 77–B to retain undistributed earnings without penalty (although other system companies would not be thus exempt).

The system set-up is rather involved and will doubtless eventually require considerable simplication to conform with present Federal legislation. Nominally the "top" holding company is the dormant U. S. Electric Power Corporation and the associated group (referred to above), which together with H. M. Byllesby & Co. control Standard Power & Light Corporation; Byllesby and Standard Power control Standard Gas & Electric Corporation, which in turn controls the principal operating companies (with the exception of the Northern States Power group for which there is an intermediate Delaware holding company).

THERE has recently been considerable market interest in the securities of the Standard Gas & Electric securities, particularly the prior preference stocks, on which back dividends of about $14–$16 per share have accrued. With 1936 earnings apparently running over last year, it is thought that current dividend requirements on these stocks should be fully earned in 1936, and in one published survey an estimate of $9–$10 per share has been reached. However, there is one point which might work against the preferred stockholders if the present reorganization plan is carried through. The leading committee representing the note and debentureholders is anxious that the reorganization provide means for cutting down Standard Gas & Electric Company's funded debt, either through a sinking fund or by cash raised through sale or financing of subsidiary properties. Some time ago a sinking fund of as much as 50 per cent of net income (but not in excess of 2 per cent of the funded debt per annum) was proposed. It seems likely that such a heavy sinking fund would meet opposition from the committee representing preferred stockholders, and the attitude of the Del-

aware court is not yet clear. Should the sinking-fund idea be decided upon, this would naturally tend to defer any settlement of preferred arrears until some broader readjustment of the financial set-up is developed.

"Back Dividends" the Next Problem

SETTLEMENT of preferred-dividend arrears constitutes the fourth stage of recovery in utility finance, according to the *New York Times.* Previous stages were (1) virtual elimination of some $789,000,000 bank loans (which reached a peak in 1930, partly as a result of the building program of that year in response to President Hoover's appeal); (2) handling of over $1,100,000,000 in debt maturities in 1932–34; and (3) the refunding of over $2,000,000,000 high-coupon rate securities over the past eighteen months. Regarding the methods of settlement of arrears, the new tax law would naturally tend to stimulate payments of cash as far as possible, although on the other hand the demands for plant expansion in the coming year or so may make inroads on the cash of those systems whose credit has not been so fully restored as to permit financing of subsidiaries' requirements through low-rate bond issues. However, the trend toward increased retirement reserves may prove helpful in providing additional cash for improvements.

Where accumulations of preferred dividends are quite large, it appears likely that voluntary recapitalizations will be resorted to. However, in some cases valuable assets might be disposed of to other interests to provide cash. According to the *Journal of Commerce,* United Gas Corporation's oil interests in the spectacular Rodessa field, if sold at prevailing prices, would realize more than $50,000,000, thus permitting retirement of bank loans and advances from Electric Bond & Share which approximate that amount. However, it is thought that a bond issue may be resorted to instead of selling the oil properties. If this were done it would doubtless facilitate eventual readjustment of some $30,000,000 back dividends on United Gas preferred stock.

Engineers Public Service Co. directors recently declared payments of $4 on the $5 convertible preferred stock, $4.40 on the $5.50 preferred stock, and $4.80 on the $6 preferred stock. These payments will leave accumulations of $11 on the $5 stock, $12 on the $5.50, and $13.20 on the $6 issue.

SEC Lightens Restrictions on Utility Directorates

THE Securities and Exchange Commission has announced exemptions to certain provisions of the Utility Act with respect to interlocking directorates. The commission announced that it was not authorized to grant exemptions in individual cases, and that even in the general exemptions granted, financial institutions must not be represented by more than one third of the board of directors of any utility company. Among the exemptions were:

Bank officers authorized by Federal courts or the Federal Power Commission to serve utility companies; representation of financial institutions because of default in loans or similar situations; investment bankers when there are no financial transactions between their firms and the utilities; individuals with a personal interest of 10 per cent or more in voting securities; financial institutions which hold a majority of voting securities; institutions which serve as trustees under security issues without direct interest in their own right; financial institutions other than national banks whose lending capacity is limited to $200,000; and local operating companies with officers or directors of local banks serving at present.

The SEC noted that the exceptions did not apply to "the same person" acting as "both an executive officer of the financial institution and an officer of the utility."

Record Power Output to Speed New Equipment

THE new record output of over two billion kilowatt hours in the week ended June 20th seems to indicate an approaching need for increased generating capacity in many localities. This does not necessarily mean new plant construction. A first step toward greater capacity is frequently to install high-pressure boilers and an additional turbine. This normally permits a considerable increase in capacity with a relatively small expenditure per new kilowatt of capacity installed.

According to *The Wall Street Journal* equipment involving about 500,000 kilowatts was purchased or under construction in the past six months. Estimating about $40 per kilowatt, an expenditure of some $20,000,000 was indicated. The following are said to account for the greater part of this business: American Gas & Electric, New York Edison, West Penn Power, Monongahela West Penn Public Service, Commonwealth Edison, Kansas City Power & Light, Missouri Power & Light, Connecticut Power, Virginia Electric Power, Virginia Public Service, Union Gas & Electric, Nebraska Power, United Power Manufacturing, Utah Power, and Lynn Gas & Electric.

How Will Forthcoming TVA Contracts Affect Private Companies?

COMPLETION of the Norris dam power house in August or September will be followed after ninety days by new TVA electric power contracts. Under the original contracts it was understood that each company's territory was to be respected; will this hold good when the new contracts are in force—or will a political policy of "no quarter" prevail?

Despite the tendency to minimize the "yardstick" idea and to emphasize navigation and flood control while the TVA issue was before the Supreme Court, the basic idea was again in the forefront when the Democratic platform was constructed. Plank five reads:

> This administration has fostered power rate yardsticks in the Tennessee valley and in several other parts of the nation. As a result electricity has been made available to the people at a lower rate. We will continue to promote plans for rural electrification and for cheap power by means of the yardstick method.

In view of this, holders of senior securities of companies in TVA territory are necessarily concerned over possibilities of TVA competition to a degree which may prove still more confiscatory of private power investments in this area.

Notes on New Financing

NEW financing in the fortnight ended July 3rd included the following: $32,493,000 Niagara Falls Power Co. first and refunding 3½s of 1966 at 104; Wisconsin Power & Light Co. first "A" 4s of 1966 at 99½, and $3,700,000 serial debenture 4s; $15,000,000 Potomac Electric Power Co. first 3½s at 104; $11,000,000 West Massachusetts Cos. 3½s of 1946 at 101¼; and $3,000,000 Otter Tail Power Co. first 4s of 1961 at 100.

Forthcoming issues as indicated by a calendar of SEC registrations and effective dates are: July 6th (or later) $30,000,000 New York Edison Co. first and refunding 3½s (Morgan Stanley & Co.); July 7th, $5,600,000 West Virginia Water Service Co. first 4s of 1961 (Halsey, Stuart & Co.); July 9th, $9,000,000 Sioux City Gas & Electric first 4s of 1966 and $1,500,000 debenture "A" bonds of 1937–46 (A. C. Allyn & Co., Inc.); July 15th, $1,750,000 Albuquerque Natural Gas Co. first "A" 5s; $7,108,000 Bangor Hydro-Electric first 3¾s of 1966 (Edward B. Smith & Co.); $34,000,000 Narragansett Electric first "A" 3½s of 1966; July 20th, $26,000,000 Public Service Electric & Gas Co. first and refunding 3½s of 1966. Issues on which dates remain uncertain are $17,500,000 N. Y. State Electric & Gas Cor-

poration 4s of 1965; $9,000,000 Central Maine Power Co. first "H" 4s of 1966 (First Boston Corporation); and $6,000,000 Broad River Power Co. first 4½s, 1966 (Halsey, Stuart & Co.).

Arkansas Louisiana Gas Co. has recently filed a registration statement for $10,000,000 first 4s; the proceeds together with $10,000,000 to be realized from the debenture 5s of 1952 presently to be issued, are to be applied to retire indebtedness to the parent company, Arkansas Natural Gas Corporation, and for other purposes. Indianapolis Water Co. has recently filed a registration statement for $13,875,000 first 3½s.

Tax Penalty on Bond Refundings?

ONE of the provisions of the revenue act recently enacted by Congress may, according to Dow Jones, handicap bond-refunding operations and penalize those corporations which have already refunded since May 1st. According to an interpretation of the act by Treasury officials, the surtax on undistributed earnings will be assessed on sinking-fund allocations made under the terms of bond issues to refund indebtedness which existed before May 1st. The law exempts sinking-fund allocations required by contracts or indentures existing prior to May 1st, but not those made after that date and applying to indebtedness which existed before that date. The present interpretation is not yet final, however.

Should this possible phase of the law be enforced it may prove an obstacle to corporate refundings, since in some cases the added tax on sinking-fund reserves may offset the savings in interest charges. *The Wall Street Journal* cites the following example:

> If a corporation had a net income of $100,000 and was required by an indenture entered into prior to May 1st to set aside $40,000 for sinking-fund purposes, it could pay its taxes and provide the $40,000 by retaining roughly $53,000, which would represent the $40,000 plus the "normal" corporation income tax under the new law.
>
> If, however, the indenture was entered into after May 1st, the corporation would have to retain almost $65,000 from its net earnings of $100,000 in order to cover the sinking-fund charges plus the "normal" tax, plus the super-tax on undistributed earnings.

Federal Power Commission Prescribes Uniform Accounts

A UNIFORM system of accounts has been prescribed by the FPC for utilities subject to the Federal Power Act, to take effect January 1st. The system has been developed in coöperation with the National Association of Railroad & Utilities Commissioners and other state and Federal agencies, after obtaining the views of the utility companies. According to a statement issued by the commission, the new rules are designed largely to aid in the more accurate determination of costs.

> Among other things, the proposed system requires that the actual cost of electrical utility property constructed or acquired in the future be stated in the accounts and be classified first, under general groups such as production, transmission, distribution, utilization, and general, and further, classified under each group by specific accounts having appropriate titles descriptive of the property. It is required that all amounts shown by the accounts of public utilities and licensees as of the effective date of the proposed system, purporting to show the investment in electric property, be reclassified under the prescribed accounts on the basis of original cost (actual or estimated) and that the difference between the original cost and the cost to the utility, or the book cost, be carried to an adjustment account. The purpose of this provision is to have the property or plant accounts of each utility stated on a uniform basis, namely, that of original cost to the person first dedicating the property to public service, and as a basis for accounting for depreciation and retirements.

The commission's announcement again raises the question of setting up original cost figures, already taken to the courts by American Telephone and Telegraph Co. (with respect to FCC regulations) and by New York utility companies in connection with an order of the public service commission. Util-

ity companies are requested within six months' time to assemble data on the cost of all their properties *to the original builders*—data which has taken the railroads some twenty years or more to assemble at a total cost of over $186,000,000 (including Federal expenditures)—despite the fact that Federal regulation began in 1887 and railroads accounts have been kept on a cost basis since 1907.

ACCORDING to *Standard Statistics,* it was originally thought that the rail valuation would cost only $3,000,000 and take only two or three years; instead the valuation remained incomplete after eighteen years' work and contrary to original belief "it has been discovered that the railroads are not overcapitalized in relation to reproduction costs" and "the government cannot regulate rates to yield a fair return on the value of the railroad property utilized."

It is true that in its present order the Federal Power Commission permits some *estimates* of original cost, but how freely will it permit it the use of "estimates?" It is also true that the utility industry is probably only about one half to one third as old as the railroad system of the United States, and hence it may be possible to obtain original property costs without the same difficulty the railroads experienced; but considering the many changes of ownership or control incident to the period of system-building in the past few decades, there is obviously a vast amount of work involved if the utilities are to make a conscientious effort to follow the commission's wishes. Would it not be more logical for the Federal Power Commission to order the utilities merely to keep their accounts on a uniform basis after January 1, 1937 (many of them have already been following uniform accounting requirements as prescribed for many years by the state commissions in New York and some other states) and to make a further investigation regarding the practicability of obtaining original records covering previous costs.

PROPERTY valuation has proved of vital importance in rate litigation for many years. Many special appraisals by engineers have been made and court and commission decisions have covered a vast range of controversial factors. It would seem worth while for the FPC to put experts to work assembling this information, as an aid to formulating its accounting program.

For many years the ICC temporized with the problem of depreciation charges for railroads. Failure boldly to force proper charges has resulted in overstatement of railroad earnings during prosperous years, with resultant overfinancing through mortgage issues. While depreciation charges have been inadequate for some utilities, in the writer's opinion, on the whole utilities have been more conservative than railroads. For this and other reasons their financing has been on a sounder basis despite lack of Federal regulation—as evidenced by fewer receiverships.

The Federal Power Commission can be of great service in unifying utility accounts and issuing statistics similar to those compiled by the ICC. The strengthening of depreciation accounts and the clarification of balance-sheet statements are also highly desirable objectives, but it is doubtful whether an "original cost" system can be formulated within a few months.

New Tax Bill Hits Holding Company Systems

THE new tax law recently enacted raises the tax rate on dividends received by corporations from 1½ per cent to 2¾ per cent. Also, if the corporation receiving the dividends does not pass them along to stockholders, it becomes liable for the new 7–27 per cent levy on undistributed profits. This will add to the already heavy tax burdens of the industry, particularly for those systems which may wish to use surplus earnings for construction work in lieu of raising new capital.

What Others Think

The Effect of the Holding Company Act on Holding Companies—So Far

An interesting and rather impressive manuscript was inserted in the *Congressional Record* by U. S. Senator Wheeler of Montana during the closing days of the recent session. It had to do with the financial performance of public utility holding company systems and their operating subsidiaries during the year 1935 and the first five months of 1936. By implication this seventeen months' study is supposed to reflect the effect, if any, which the Public Utility Holding Company Act of 1935 has had on the securities of these companies. Summarizing the tabulated information, the Wheeler manuscript stated:

> The very complete and detailed data compiled on the accompanying sheets show that public utility holding and operating companies—electric light, power, and gas—issued and sold during the year 1935 new securities to the amount of, at par value $1,076,412,080
>
> And during the first 5 months of 1936, *i. e.*, to May 31st, they issued and sold new securities to the amount of, at par value 644,124,900
>
> Total amount issued and sold for the 17 months ended May 31, 1936 ..... $1,720,536,980
>
> New securities "registered" in May with the Securities and Exchange Commission for early sale 144,643,000
>
> Grand total $1,865,179,980
>
> The entire amount, $1,076,412,080, of new securities put out during the year 1935 were issued and sold after the introduction into Congress of the Wheeler-Rayburn bill. Of this latter amount, $533,260,000, par value, or close to 50 per cent of the total, were issued and sold between the time the bill was introduced and its enactment into law.
>
> It was during this period that the opponents of the bill—led and influenced largely by the "Committee of Public Utility Executives"—were declaring the bill to be a "destructive" measure and predicting that its passage would practically be ruinous to the electric light and power industry. Evidently investment houses, investors, both private and institutional, did not believe or agree with these statements and predictions, because of the fact that after the passage and approval by the President of the act and for the remainder of the year, they purchased $543,152,080, par value or over 50 per cent of the $1,076,412,080 new securities issued and sold by public utility holding and operating companies during the year 1935. It should further be noted that the annual interest rate on $1,032,634,080, or 95.9 per cent of the total new securities sold, ranged from 3½ per cent to 4½ per cent, the average interest rate amounting to but 3.86 per cent. And of this $1,032,634,080 of new securities, $915,634,500, or 88.7 per cent, the interest rate is only 3½ per cent to 4 per cent.
>
> Even when money is plentiful, capital demands a rate of interest or return in keeping with the known or indicated risk involved.
>
> The interest rates as above set forth and applying as they do to over 88.7 per cent of the new securities in one instance and to 95.9 per cent in another instance clearly indicate that capital and investors saw, in these new public utility securities, no more than the usual risk connected with any high-grade security.

The total amount of new securities listed, namely $1,865,179,980 is regarded by Senator Wheeler as a contradiction to the assertion that the Wheeler-Rayburn bill (Holding Company Act) would, if enacted, stifle utility financing. It is stated that the securities listed in the manuscript cover properties in probably 35 states and are a fair representative selection for the entire industry.

The list includes bonds, debentures, notes, preferred and common stock. The last two, of course, have no maturity; the notes and debentures are of short duration and the life of the bonds

ranges from fourteen to thirty-five years with the average life of maturity about twenty-six years. (Twenty-five per cent of the total average 26-year maturity and 42 per cent average 30 years.)

SENATOR Wheeler's manuscript concedes that most of these issues were for refunding purposes rather than for new construction. The redemption "calls" were at prices ranging from 102 to 105 on securities bearing interest at from 5 to 6½ per cent. This will, of course, result in a saving of interest charges, but it scarcely indicates continuing investing confidence in the future of the industry to the same extent as would the floating of issues for new construction. Indeed, the very fact that utilities have, generally speaking, confined their financing during a period of "cheap money" to refunding while other industries have once more embarked on expansion programs would seem to indicate either that electric utilities are still overbuilt or that the investors are comparatively underconfident, or a combination of both. The manuscript continued:

> In connection with the above, please remember that for the seventeen months ended May 31, 1936, there was actually marketed $1,720,536,980 of new securities, with $144,643,000 "registered" for early sale; or a total of $1,865,179,980 put out by public utility companies in that period.
>
> The average annual interest rate on same being 3.86 per cent and as low as 3 per cent, as against interest rates on the bonds called for redemption ranging from 5 per cent to 6½ per cent. The large yearly saving in "fixed charges" will amount to hundreds of thousands of dollars.
>
> The average maturity (life) of these new securities is twenty-six years; and as the large annual saving above shown will be effective for this long period of twenty-six years, the total saving becomes enormous and the benefit to the equity holders simply immense; yet the Public Utility Act of 1935 is a "destructive" measure and a ruinous one to public utilities—electric light, power, and gas—and especially to investors in junior securities of same; that is, according to statements, assertions, and representations made by members and associates of the committee of public utility executives—also known as the Gadsden committee—in their efforts and fight to defeat and prevent the passage of the Wheeler-Rayburn bill.
>
> The facts set forth in this article and as shown on the accompanying sheets are sufficient proof that this committee indulged in—to put it mildly—continued misrepresentation also in unwarranted and misleading predictions as to the future disastrous effect of the bill upon utility holding and operating companies.
>
> And it is particularly pertinent to note that of the 62 public utility companies which marketed the new securities covered by this article, that 27 companies were either subsidiaries of member companies of the Gadsden committee, or were member companies themselves—please get this straight, that over a large majority of the membership of this committee issued and sold new security issues and at lower interest rates than their then outstanding bonds and securities were carrying; notwithstanding their unqualified claims that the passage of the Wheeler-Rayburn bill would prevent this very thing—these 27 companies comprising 43.5 per cent of the total number marketing the new securities.
>
> In the year 1935, 28 or 50 per cent of the 56 issues sold were of this committee group; they selling in that year 1935, $686,620,080 par value, or 63.8 per cent in amount of the new securities sold.
>
> During the first five months of 1936, this committee group marketed $300,454,900 par value, or 45.1 per cent of the total put out.
>
> Of the seven companies which registered new securities with the SEC in May, for early sale, three are of this committee group, the securities amounting to $77,493,000 par value, or 53.6 per cent of the total amount registered for marketing.

THE manuscript concluded with a list of companies that contributed to the Committee of Public Utility Executives, together with the amounts contributed (based on data furnished to the Senate Lobby Committee), and the detailed list of utility holding companies (gas and electric) that issued and sold new securities during the year 1935 with essential data relative to such securities.

One difficulty with argument to the effect that the Holding Company Act has not hurt private utility investors (and the same is probably true of arguments that TVA operations have not hindered privately managed utilities in the Tennessee valley) is the fact that it has not yet had a chance. Almost since its effective date, the act has been tied up by



Nebraska State Journal

GOING THE INDIAN ONE BETTER

court injunction and the growing conviction that the law is unconstitutional may explain the fair performance of utility securities much better than the fact that the law was enacted or is still on the statute books. Certainly such financial performance so far would be a poor basis for prediction of what would happen if the Supreme Court should declare the Holding Company Act constitutional to the last detail and let loose the Security and Exchange

Commission to work its will upon the holding companies. If you doubt it ask your broker.

The upward surge in the market prices of utility securities following Federal District Judge Coleman's decision last fall declaring the Holding Company Act unconstitutional would seem to bear out such a view. After all, if the impression (sound or unsound as it may be) that the Holding Company Act will certainly be outlawed has spread throughout the investors to such an extent that they have discounted the validity of the act, it would seem somewhat beside the point to argue that the act has not done financial harm. It's like telling a small boy at the circus that the wild animals would not harm him. He might agree with you under the prevailing circumstances, but it is more likely that he would move mighty fast if you started to let the animals out of their cages.

And if the Supreme Court next year should remove the cage of court injunctions that now restrains the Holding Company Act, one may confidently expect the stock market to execute a similar retreat notwithstanding Senator Wheeler's conviction that the act cannot really harm investors.

—E. S. B.

SECURITIES ISSUED AND SOLD BY PUBLIC UTILITY HOLDING AND OPERATING COMPANIES. Extension of Remarks of Hon. Burton K. Wheeler of Montana in the Senate of the United States. June 20, 1936.

That Report on Distribution Costs

OFF and on for several years some of the critics of regulation have complained because an adequate study of the costs of distributing electricity has not been made by the electrical companies or by the state commissions. The expectation of those who make this charge is that a more detailed study of distribution costs will show that domestic and certain other consumers are overcharged at the expense of other customers, or possibly that all customers are being overcharged through lack of efficiency in operation, which would be shown by thorough cost accounting studies. Complete and exhaustive analysis of electrical distribution costs on a nation-wide scale was advocated by the Institute of Public Engineering which assembled on January 20, 1933, at the Pennsylvania Hotel in New York city under the auspices of the New York State Power Authority.

Morris L. Cooke, the present chief of the Rural Electrification Administration, was one of those who engineered the 1933 meeting and he has been one of the advocates of a thorough-going study of distribution costs—by somebody or other—preferably the Federal government.

Writing in *The New Republic* back in 1932, Mr. Cooke stated the need for such investigation of the electrical industry as follows:

> Its executives can tell you to the fraction of a mill what it costs to generate electricity, or what it costs to transmit current over high-tension lines for 10 miles, or 350 miles. But they do not know what it costs per kilowatt hour to distribute energy from the local switchboard or the step-down station at the end of a transmission line to houses, stores, and streets—a distance usually not more than 5 miles. They have not investigated or discovered this important fact about their business in all the fifty years of its existence.

And what is more, Mr. Cooke and many of his group that met in New York city in 1933 were convinced that the job could be done. This writer recalls that meeting and some of the speeches and illustrated talks by engineers who even ventured that we could, through standardized cost accounting, develop nation-wide studies for comparative purposes. There was one speaker who gave an interesting study

of how certain competitive industries have successfully applied this type of cost accounting to themselves.

He showed the meeting some interesting slides disclosing how the production of phosphoric acid had been thoroughly reduced to component cost standards, including such items as cost of rock, labor, machinery, overheads, and so forth. He said it made little difference that one batch of rock in one plant might vary in the cost of handling from another batch of rock at another plant. Sufficient general averages had been obtained to subordinate these differences with success, until the industry now has a cost standard of every phase of operation.

It was about this point, as this reviewer recalls, that Hudson W. Reed, of the United Gas Improvement Company, warned against falling into the attractive but erroneous trap of nation-wide standards for comparative purposes.

Writing later on the same subject in PUBLIC UTILITIES FORTNIGHTLY, Mr. Reed stated:

> Notwithstanding the increase in the consumption of the domestic consumers during the past few years—a highly improbable condition were the service improperly priced—Mr. Domestic Consumer has been further erroneously informed that were the costs of distributing electricity known, domestic service rates would be drastically reduced. The assertion has often been made that distribution cost is not known or disclosed by utilities.
>
> In an effort to substantiate these claims, considerable pressure has been brought to bear on utility management for comparative and easily understandable costs of electric service. Unfortunately, distributing costs between companies are not comparable, even to the limited extent to which generation costs may fairly be compared. This fact probably gives rise to the erroneous belief that distribution costs are not available because the accounting methods used are either unduly complicated or woefully inadequate.

Well, those who wanted a thorough investigation of distribution costs prevailed, as we know, in Congress. The Costigan Resolution (Senate Resolution No. 80 of the 73rd session) directed the Federal Power Commission to make such an investigation and report back. That was in May, 1933. On July 5, 1936, over three years later, the Federal Power Commission made its report. (It is understood that the commission, by reason of pressure of other affairs, was unable to get down to brass tacks on this survey prior to October, 1933.) In the news release of the commission which accompanies this report, there is a paragraph which seems to follow the spirit of Mr. Reed's earlier judgment. It states:

> Conditions and costs vary so widely in different systems and sections that any attempt to generalize in this highly technical field would have been worthless. Systems were, therefore, selected in various localities, and continuous studies made of all the elements that enter into local distribution, in the effort to present a detailed report of value to consumers and the industry.

In brief the report covered 22 private and municipal electric utility systems serving both urban and rural territory. Of the 19 urban cities studied, 7 were cities of more than 100,000 population among which were Los Angeles, Washington, D. C., Seattle, Portland, and Tacoma. Twelve were in smaller communities ranging from Lansing, Mich., (municipal) with 82,786 down to Lewisburg, Pa. (private) with 3,308 population. Six municipal plants were included: Los Angeles, Seattle, Tacoma, Pasadena, Lansing, Mich., and Springfield, Ill. Three of these have competition and three do not. All 6 may be said to be among the "Blue Ribbon" exhibits of municipal ownership; however, it is obvious that the commission in making its selection was attempting to obtain a fair diversity of geographic location, density of population, and other operating factors rather than to stress comparisons between public and private management. Summarizing the report, the release stated:

> Overhead and underground systems are treated in separate tables and together. In the combined table the lowest distribution system investment per customer, $45.18, is found at Lewisburg, Pa.; and next lowest, $48.27, at Springfield, Ill.; followed by Superior, Wis., $50. The highest,



St. Louis Globe-Democrat

SOME OF THE BOYS ARE JUST GETTING STARTED

$117.99, is that of the Puget Sound Power and Light Company, at Seattle, which owing to competitive conditions, has built a distribution system covering the entire city area with sufficient capacity to supply practically all residential customers within reach of their lines, although they serve less than one fourth of the total.

Other systems influenced by competition are the municipal system in Seattle, with a customer investment of $81.43; the Los Angeles system with $81.46; the two Portland systems with $68.34 and $95.90, and the Springfield system with $48.27 per customer.

Excluding competitive systems, the highest investment per customer, $96.72 is found in Washington, D. C., where nearly two thirds of the customers (64 per cent) are supplied from underground lines, and

where the underground investment is considerably increased by the duplication of facilities through the existence of both direct current and alternating current distribution systems.

Combining fixed charges on the investment per customer with the taxes and operating costs per customer gives the annual cost of distribution in dollars per customer per year. The lowest costs (using, for simplicity, 6 per cent return figure) were $9.92 at Springfield, Ill., $9.95 at Lewisburg, Pa., $11.56 at Lansing, Mich., and $12.89 at Tacoma. The highest found were $29.12 on the competitive Puget Sound Power & Light Co. system at Seattle; $22.85 on the competitive Northwestern Electric Company system at Portland, Oregon; $22.65 at Manchester, Conn., and $21 at Hershey, Pa.

The costs expressed in cents per kilowatt hour for each system are obtained by dividing the annual cost per customer by the corresponding average annual usage of energy per customer. The usage varies from 444 kilowatt hours per year at Nashua, New Hampshire, to 1,522 kilowatt hours on the Puget Sound system at Seattle. The Tacoma municipal system shows the lowest cost of 0.85 cents per kilowatt hour (6 per cent return). This is due to high average energy usage, 1,509 kilowatt hours, combined with the relatively low customer cost of $12.89. Other low costs are 1.25 cents per kilowatt hour at Springfield; 1.38 cents on the competitive Portland General Electric Company system at Portland, Ore., 1.53 cents at Lansing, Mich., and 1.57 cents on the municipal system at Seattle. The high costs per kilowatt hour produced by a coincidence of low usage and relatively high customer costs are 4.09 cents per kilowatt hour at Hershey, Pa., 3.89 cents at Bristol, Tenn., and 3.67 cents at Manchester, Conn.

THERE are many interesting details in the general and individual tables for the systems studied. For example, there is the item of taxes per customer allocable to distribution (other than Federal income and excise). Here is the list of the first dozen:

Los Angeles (mun.)	$0.00
Washington, D. C.	1.36
Seattle (mun.)	0.91
Puget Sound P. & L. Co. (Seattle)	2.80
Portland General Electric Co.	1.95
Northwestern Electric Co. (Portland, Ore.)	3.38
Tacoma (mun.)	1.94
Lansing (mun.)	0.00
Pasadena (mun.)	0.00
Springfield, Ill. (mun.)	0.00
Public Service Co. (Nashua, N. H.)	2.77
San Joaquin L. & P. Corp. (San Joaquin Valley, Cal.)	1.01

On the whole, the report in itself is valuable and enlightening, but for purposes to which many believed it could be put it will seem fragmentary and inconclusive for the simple reason that even the microscopic picture made by a survey of 22 systems discloses such wide variations that the hope of obtaining comparative standards in the electric industry through cost accounting for distribution systems seems further away than ever.

The commission has done its part. Its report, on the surface, at least, seems fairly drafted and ably organized. The difficulty from the viewpoint of the standardizer is that the results are what they are.

The commission itself (in the release quoted) concedes that "any attempt to generalize in this highly technical field would have been worthless." It recalls the Irishman's observation on the female of the species to the effect that women are all alike in only one respect; that is in being different from one another.

—F. X. W.

REPORTS ON "COST OF DISTRIBUTION OF ELECTRICITY"—POWER SERIES No. 3. Federal Power Commission. July 5, 1936.

For the Holding Company—Death, Taxes, or Both?

THE recent action of the directors of the American Water Works and Electric Company, in declining to declare a dividend on common stock for the year ending May 31, 1936, notwithstanding the fact that the company earned $1.49 consolidated net income on each share, should serve to wake up government officials and investors, as well as company executives, to the fact

that the Revenue Act of 1936 threatens some hard knocks to holding company securities. Explaining to stockholders the action of his board, H. Hobart Porter, president of the company, stated:

> The tax bill is new in principle and its probable effects are not known. It was passed over the protests of practically all business representatives who appeared before the committees of Congress.
>
> Your company has a large number of subsidiaries. It is essential for each subsidiary to estimate what its income will be and to determine what portion of its earnings may properly be declared and paid out as dividends and what portion must be retained to meet the reasonable requirements of its business, including taxes.
>
> Under the new tax bill, these matters directly affect the amount of taxes payable by each subsidiary, and therefore affect the income of your company and the amount of taxes payable by it. Consideration should also be given to the regulations of the Bureau of Internal Revenue fixing the method which must be employed in computing taxes payable under this bill. These regulations have not been issued. Until such studies have been completed, it will not be possible for your directors to act wisely in resuming a dividend on the common stock.

The atmosphere in which the bill was passed has been pretty generally condemned. When such a friend of the present administration as *Today's* editor, Raymond Moley, calls it "One of the most iniquitous taxation measures ever adopted by a professedly democratic assemblage," one can imagine what some less New Dealish observers are saying. Editor Moley adds that the bill "embodies every vicious principle contained in the first raw draft submitted to the House by a Treasury Department infatuated with the novelty of an untried and demonstrably unsound social theory."

A recent article by the Washington correspondent of the telephone weekly journal *Telephony* speaks even more frankly:

> The bill is the doubtful offspring of a conference fusion of House and Senate bills that were as far apart as the poles. It follows the real desire of neither branch of Congress and won the White House blessing only because heat-weary congressmen, excited by the increasing political drumbeating, threatened to kick over the traces and bolt for home unless school were let out. Of such stuff is our most important law—the Revenue Act of 1936—made. It is a truism to say that not one half of the members read through the final bill. Charity forbids a further estimate of the proportion that understood it.

F. E. Seidman of the well-known accounting firm of Seidman & Seidman, recently analyzed the effect of the new tax bill on utility holding companies. Writing in the *Chicago Journal of Commerce*, he predicts that "the 1936 taxing act may indirectly dissolve the necessity of testing the legality of this piece of legislation." Slowly but surely, he states, holding companies will be taxed to death even if they are not put to death by direct dissolution.

Furthermore, all holding companies (not merely the utility branch) are said to be in the same boat. Analyzing the reason why he thinks it will be exceedingly difficult if not impossible for some holding companies to survive under the new law, Mr. Seidman states:

> To begin with, the law provides that 15 per cent of all dividends received by a corporation from another corporation must be included in income for corporate normal taxes. In years prior to 1936, all such intercompany dividends were exempt from tax. The effect of this change upon organizations containing layers of corporate structures is obvious. Taxes will have to be paid on part of the same income over and over again, the extent of the duplication depending upon the series of corporations contained in the holding company structure. Thus, assume that an operating company is substantially all owned by holding companies involving, say, four intercorporate structures. First, there will be a tax against the basic operating company. Then, as the income of this operating company filters through the labyrinth of corporations, a tax on 15 per cent of the operating income will again be paid by each corporation receiving the income, right through to the top company. Thus, the normal tax against this underlying income will not be the maximum of 15 per cent as nominally provided by the law, but actually more than 23 per cent. As already indicated, this comes about because of the duplication of the intercompany dividends and the tax thereon at every step. When it is considered that numerous holding companies are extant that have not four but sometimes many times four layers of cor-

porations, it becomes quickly apparent as to the punishment that lies in store for them.

However, normal tax duplication is but the smallest part of the impending holding company tax troubles. The real difficulties will come when the provisions of the undistributed profits tax are applied. This tax provides for a levy at graduated rates up to 27 per cent on the undistributed profits of corporations. However, to determine the profits of the corporation upon which this tax is applied, *all* dividends are includable and not merely 15 per cent of them, as is the case with respect to the normal tax on corporations. In other words, dividends received by one corporation from another corporation are, for undistributed profits taxes, treated exactly the same as any other income. They do not receive any exemption. This means that in a many-layered corporate structure, heavy taxes would accrue unless distribution takes place of all intercompany income into and through the top company. Barring such distribution, every retention of a portion of the income would involve a surtax ranging from 7 per cent to 27 per cent, depending upon the portion withheld by each company. It might, however, be pointed out that some relief is afforded through one of the "safety valve" provisions of the law. This contemplates an exemption from the undistributed profits tax of earnings which, under written contract (entered into before May 1, 1936) cannot be distributed or must be applied in payment of debts. While this provision will probably relieve some corporations of the pressure of the tax, it will not change its underlying effects on holding companies.

Mr. Seidman gives three possible paths for holding companies to follow: (1) pay the heavy taxes and go broke; (2) distribute substantially all intercompany income "throughout the corporate labyrinth" or (3) integrate their corporate structures (which in polite language, according to the author, means "being taken for a ride").

The first proposal is said to be suicide. The second is practical only for the relatively few organizations having comparatively simple intercompany structures and owning substantially all underlying stock. The third alternative (complete or substantial integration) is said to be the most probable solution, such as it is.

Intercompany structures will collapse and the holding company will be largely liquidated. Thus, claims the writer, when the final "death sentence" date under the Public Utility Holding Company Act rolls around, "the sting will be over and only the memory will linger on." In short, taxation will have already accomplished the results desired by the administration without the aid of the statutory product of Messrs. Wheeler and Rayburn.

—E. S. B.

REPORT TO STOCKHOLDERS. American Water Works and Electric Co., Inc. *The New York Times.* July 8, 1936.

IN THE NATION'S CAPITAL. *Telephony.* July 4, 1936.

HOLDING COMPANIES AND THE NEW TAX LAW. By F. E. Seidman. *Chicago Journal of Commerce.* June 29, 1936.

Notes on Recent Publications

RURAL ELECTRIFICATION PROGRAM IN ILLINOIS. Preliminary Coördination Meeting. Chicago, Ill. March 12, 1936. Published by State Rural Electrification Committee. Warren H. Marple, Executive Secretary, 200 State House, Springfield, Ill.

This publication is unusual in that it makes available a stenographic transcript of a meeting of a typical rural electrification group. The particular meeting covered was held under the auspices of the Illinois State Rural Electrification Committee. Representatives of different views were heard: State officials, private utility operators, and public ownership advocates. It is interesting to note what the farmers and others talk about and ask about at such meetings.

LEGAL NOTES ON LOCAL GOVERNMENT. (A quarterly journal.) Published by the Section of Municipal Law, American Bar Association, 100 Washington Square East, New York, N. Y. $2 a year.

The first issue of this new quarterly publication appeared in March, 1936. In addition to leading articles on current problems there is a very useful section surveying current case law, legislation, and literature. Municipal administrators will welcome this new publication in a heretofore neglected field.

The Latest Utility Rulings

Bar against Separate Holding Companies' Suits Lifted by Appellate Court

THE District of Columbia Supreme Court, according to a decision by the United States Court of Appeals, exceeded its authority when it stayed further proceedings in suits filed by several holding companies asking injunctions and attacking the constitutionality of the Public Utility Holding Company Act of 1935. The effect of this decision is to permit the North American Company and others to go to trial unless the United States Supreme Court interferes.

The stay of injunction proceedings was sought and obtained by the government in the lower court on the ground that the test suit of the Electric Bond & Share Company should first be tried and the government should not be required to meet the many injunction suits of separate holding companies.

Associate Justice Josiah A. Van Orsdel, writing the majority opinion for the appellate court, pointed out that even if the lower court had authority to grant such a stay, it should not have been granted before the government had filed its answers in the suits.

The gist of the decision by the higher court was that the government of the United States as a litigant has no greater rights than the humblest citizen, and that the rights of the citizen are not to be overlooked even though the Department of Justice may be confronted with difficulty in conducting a vast amount of litigation in which the various agencies of the government have become involved.

The citizen, it was said, is entitled to be heard in the courts in defense of his rights, if he honestly believes that they have been invaded to his damage, even by an agency of the government. It was said in part:

> While it is true that a court of equity has wide discretion in the public interest in the exercise of its jurisdiction . . . yet it may not stay its hand because of such interest if by so doing private rights will suffer. . . . That the rights of the plaintiffs in the present would suffer by reason of the stay granted is apparent, since the very existence of the act, whether they register under it or not, must of necessity affect materially the conduct of their business during the pendency of these suits.

North American Co. et al. v. United States.

Electric Utility Not Segregated for Rate Making

THE Pennsylvania commission, in dismissing complaints by a municipality against rates of an electric utility on the ground that the municipality had failed to sustain its complaint, held that the evidence failed to make out a case for the segregation of the city as a rate area, that rates within the city had not been shown to be unreasonable, that the evidence failed to show that rates in the entire area served were excessive, and that the record afforded no basis for a finding that street lighting rates were excessive or that objective and domestic rates were discriminatory.

The complaining city, in the opinion of the commission, had failed to discharge its burden of proof as to the propriety of segregating the city for rate making because it had offered no evidence whatever on the question as to whether the city should be isolated from

the remaining territory and treated as a rate unit in itself. The commission said that obviously segregation should not be undertaken unless there is a showing that the facts permit it and sound public policy requires it, notwithstanding a ruling by the Supreme Court in Wabash Valley Electric Co. *v.* Young, 287 U. S. 488, P.U.R.1933A, 433, that a commission decision to segregate under particular conditions and statutory provisions involved did not violate any constitutional rights of a company.

The city, said the commission, apparently proceeded on the assumption that the territorial boundaries of a municipality, of themselves, determined the proper unit. Such an assumption, it was said, is purely arbitrary, for in the words of the commission:

> If the rate-making unit is to be an area cut out of a larger area served by a public service company, that unit should be homogeneous in its characteristics and different from the surrounding area. Such a unit should be marked by population, economic, social, and topographical characteristics peculiar to itself. Where an area is so distinguished, it may be properly segregated for rate-making purposes, if there are no other factors which compel a different policy. It cannot, on the basis of the record in this case, be said that the characteristics of the area outside but adjacent to the boundaries of the city of New Castle are radically different from those within its boundaries.

The utility company introduced evidence to show the whole of its property was developed and operated as a unified system. The territory included thirty-six incorporated communities and sixty-seven townships. The company had pursued the policy of gradually making all rates throughout its system as uniform and simple as practicable in the development of a tariff structure for the system as a whole. The commission said that to cut out of this structure a single municipality would have the effect of reversing this progress toward simplification and uniformity which had been pursued for many years.

The evidence showed that the property was operated as a unit, that while each division was under the direct supervision of a manager, the central office originated policies and operated the system as a whole, that the company was financed as a single unit, and that the accounting system was based upon the whole company, and commercial and other activities were organized on the same basis. Finally, all purchases, including both power and supplies, were made for the entire system. This resulted in lower prices, especially important in the case of power, and the commission said:

> It is obviously unfair to treat the city as a separate unit, and at the same time give it the benefit of economies which result from the more favorable character of territory served outside the city.

City of New Castle v. Pennsylvania Power Co. (*Complaint Docket Nos. 10449, 10450, and 10672*).

Erroneous Deduction for Accrued Depreciation and Contributed Property

An order of the New York commission reducing water rates was annulled by the appellate division of the supreme court on the ground that confiscation resulted from the action of the commission in making its deduction for accrued depreciation and in making deductions for property contributed by customers.

The court, however, overruled contentions by the utility company as to the scope of judicial review, holding that whatever the rule in Federal courts may be, the courts of New York are definitely committed to the proposition that in any proceeding of this sort the court does not and cannot substitute its judgment upon the facts for that of the commission. The court reviews only questions of law and does not examine

the facts further than to determine whether there was substantial evidence to sustain the determination of the commission.

The commission's ruling that no allowance should be made for issuance of stock and promoters' fees and expenses was sustained.

On the question of accrued depreciation the hearing commissioner had reported that no depreciation figures were presented by any witnesses based upon the straight-line method. Witnesses' estimates of depreciation of property ranged from $137,746 to $643,441. The commission's engineer's estimate was $503,393. The commission computed accrued depreciation of $1,285,849 on the straight-line basis.

This deduction, said the court, was determined not merely as an issue of fact but rather as one of law. The court declared that the commission in fixing rates may not base its orders on facts *dehors* the record concerning which the utility had no knowledge and no opportunity to be heard in respect thereto. The computation of depreciation was called a "mere paper calculation unsupported by any proof whatsoever."

The court said that it was not to be understood as holding that the straight-line method of computing depreciation is to be condemned in every case, but that its application in some instances is entirely proper. To justify its use, however, it must be based upon competent testimony.

The commission was held to have improperly deducted from the rate base amounts which it assumed to have been contributed for main extensions. Such contributions had been made subject to the express condition that they should be the property of the utility and exclusively subject to its control. It was said to be undisputed that the utility had title to all the inventoried property, including that paid for in whole or in part out of advances by consumers. The court said:

> For rate-making purposes petitioner is entitled to earn a reasonable return upon the value of all property used and useful in providing the service and the commission had no authority to deduct from such value the sums advanced by consumers for extensions, title to which is in petitioner (Brooklyn Union Gas Co. *v.* Prendergast [1925] 7 F. (2d) 628, P.U.R.1926A, 412; affd. [1926] 272 U. S. 579, P.U.R.1927A, 39). The source of the money used to purchase the property employed in rendering service has no bearing upon the right to compensation for the service (Public Utility Comrs. *v.* New York Teleph. Co. 271 U. S. 23, P.U.R.1926C, 740).

New Rochelle Water Co. v. Milo R. Maltbie.

No Reparation Award against Rates Fixed by Commission

THE Alabama commission denied a claim by the city of Birmingham against the Southern Bell Telephone and Telegraph Company for reparation based on the difference between rates established by the commission in 1934 and lower rates established by the commission in 1936. The commission distinguished between so-called "carrier rates" established by filing and rates fixed by commission order. The latter rates, it was held, must be deemed reasonable and properly collectible until a commission fixes different rates.

The claim for reparation was made at the beginning of the rate investigation in April, 1935. The commission then held that it could not order the impounding of amounts collected by the telephone company in excess of rates admitted by the city to be reasonable. The commission, in finally establishing lower rates, did not mention reparation or pass upon it in any way.

The right of the city to present the question of reparation to the commission, both on its own behalf and in behalf of its citizens, was sustained, al-

though the city, because it had received rate concessions, could not have proven any actual damages on its own part.

The precedent established by the United States Supreme Court in the Arizona Grocery Company Case, 284 U. S. 370, was followed as an authoritative precedent in the absence of any decision by the state supreme court. There was found to be no substantial difference between the provisions of the Interstate Commerce Commission construed in that case and the provisions of the Alabama statute in so far as the propriety of awarding reparation was concerned. The conclusion of the commission was as follows:

> . . . it is our opinion and we so find that we cannot properly award reparation as against rates which have been in effect because of a mandatory order of the commission requiring such rates to be made effective, after due notice and hearing, and resulting from a proceeding had by the commission for the purpose of inquiring into the reasonableness of previously existing rates and determining what would be just and reasonable rates to apply in the future.

Birmingham v. Southern Bell Telephone & Telegraph Co. (*Docket 6716*).

Minimum Motor Carrier Rates When Customers Have Relied on Lower Rates

SEVERAL operators of dump trucks applied to the California commission for authority to charge less than the minimum rates established by commission order in March of this year. It was contended that a lime and stone company had entered into numerous contracts for the sale of sand, rock, and gravel at prices based upon rates less than the minimum rates fixed by the commission. The commission refused to permit deviation from the established rates.

The commission reasoned that if a threat of traffic diversion to proprietary trucks which might be acquired by the stone company justified the relief sought, it would also justify the same relief to all operators in the area. As to the claim that the minimum rate resulted in loss and hardship to the shipper because of contracts, it was said that if rates were to be put into effect without so many exceptions, exemptions, and postponements as greatly to diminish their utility, occasional hardships to shippers might prove unavoidable.

It was said to be doubtful, however, that a section of the law providing for certain exemptions was designed to apply to such situation, for so to apply it would introduce discrimination between shippers based merely upon differences in their individual expectations of profit or loss.

Moreover, attention was directed to the fact that both the shippers and the carriers had knowledge of the rate proceedings under way and had ample opportunity to protect themselves. *Re Berman Brothers et al.* (*Decision No. 28697, Application No. 20447*).

Natural Gas Operations Subject to Regulation

A COMPANY having a certificate of authority under the Business Corporation Law permitting the transportation of gas for use in its own operations and the sale of gas at the point of production under private contract and at wholesale only was held by the Pennsylvania commission to be operating illegally without commission authority where it had laid pipe lines for the purpose of delivering gas to customers both within and without the state.

It was argued by the company that the solicitation of customers, the signing of contracts, and the laying of pipe lines were all preliminary to the organi-

zation of a public service company for which a certificate of public convenience would be obtained, and to which the contracts and pipe lines would be transferred. Implicit in this argument, it was said, was the admission that the operations of the company were those of a public service company, and required the authorization of the commission. *North Penn Gas Co. v. Godfrey L. Cabot, Inc.* (*Complaint Docket No. 11064*).

Failure to Make Deposit Is Covered by Rule As to Notice of Discontinuance

A RULE providing that no utility shall discontinue its service to any regular customer for failure to make payment for such service until the utility shall have first given a 5-day notice of intention to disconnect, it was held by the supreme court of Alabama, applies not only to bills for services rendered but also applies in the case of a failure to make a deposit. Justice Bouldin said:

> A sudden discontinuance of service may work hardship and even perils to the customer and his family.
>
> We think all this was in mind when rule 10(a) was promulgated as a law-made rule, and that it applies to all bills which accrue pending the service, upon which continued service depends.
>
> The deposit, payable pending service, is in essence a bill or charge for service. There is no higher obligation to pay in a deposit to guarantee payment for service, than to pay for the service already received. Both are for service, demands which the utility may make for continuance of service. The reason for five days' notice is as applicable in the one case as in the other.

Peddicord v. Tri-City Gas Co. 168 So. 166.

Natural Gas Service by New Company Not Permitted in Occupied Territory

THE Pennsylvania commission denied authority to a company proposing to serve natural gas, for the most part to industries, in territory occupied and served by existing gas utilities. The new company offered lower rates but did not propose to serve domestic consumers, except such as might be located in close proximity to the transmission mains. Commercial consumers would not be served.

The commission pointed out that a company rendering public service is entitled to a reasonable income based upon the value of its property used and useful in the public service. If it secures this income from three classes of consumers at certain rates, and one class ceases to take service, it was said, it is obvious that the burden of providing the income to which the company is legally entitled will fall upon the two remaining classes, thus necessitating an increase in the rates of these classes. This, it was said, was particularly true where the eliminated class is the major source of income. Any benefit from the proposed operations would be to industrial users of gas at the expense of domestic and commercial consumers.

The source of gas supply was estimated to be sufficient for about four years. The commission said that assuming that the burden on remaining industrial, commercial, and domestic consumers would not be too great, still the commission must inquire as to the duration of the benefit to a favored few. The commission concluded:

> We are convinced that the public interest is better served by regulation of established companies which have maintained gas service in a territory for many years and have provided for the future, than by permitting competition where the proposed competitor cannot offer an assured future supply. In contrast to the generalities of the appli-

cants, the established companies offer reliable gas supplies which will continue to be available far beyond the 4-year period set for the supply of applicants. In addition, the presently serving companies have an investment in the territory which it will be to their interest to protect, if the natural gas supply should fail, by the erection of artificial gas plants.

It was the opinion of the commission that if the rates or service of existing companies were improper or inadequate, the remedy would lie in correction of such impropriety or inadequacy rather than in the authorization of competition by a group which could not assure, even to a restricted section of the public, such as the industrial gas customers, the continuance either of the lower rates it offered, or of the gas supply which it proposed to furnish. *Re Service Gas Co.* (*Application Docket No. 34259*).

Other Important Rulings

THE Utah commission, in denying authority to extend the operations of a contract motor carrier in competition with other carriers, declared that the mere fact that one carrier offers to perform a transportation service at a lower rate than that of an existing carrier is not a sufficient ground upon which to grant such a carrier the right to operate as a carrier for hire over the highways of the state. *Re Perry* (*Case No. 1536*).

The Wisconsin commission, in authorizing a change in the form of electric rate schedules, said that a block form of rate with a minimum bill involves some elements of discrimination which are avoided in the fixed charge form of rate, and that the latter type, by segregating customer costs in a separate charge, enables the quotation of a lower energy price which has some promotional effect. *Re Mississippi Valley Public Service Co.* (*2–U–987*).

The New York Transit Commission rejected as unlawful a tariff filed for the purpose of increasing a local passenger rate fixed by the commission in an earlier order. The commission pointed out that the rate could not be increased by mere filing of a tariff schedule under § 29 of the Public Service Law, but that the proposed increase might be effected only under § 49 and by the affirmative action of the commission. *Re Bardo.*

The New York Supreme Court restrained the operation of licensed taxicab operators where they were in fact operating their vehicles as jitney busses parallel to a railway and charging the same fare as the railway without obtaining a certificate of convenience and necessity from the commission. *South Brooklyn Railway Co. v. Schayes et al. 287 N. Y. Supp. 932.*

The Pennsylvania commission, in sustaining a complaint against a 10-cent bus fare, ruled that in a coördinated transportation system total passenger revenues of the entire operation must be taken into account, and that the revenues of individual lines or branches operating cannot be used to show profitable or unprofitable operation. *Heck et al. v. Reading Coach Co.* (*Complaint Docket No. 11099*).

The Pennsylvania commission held that a corporation having charter power to engage in the storage and warehouse business could not legally operate a common carrier business as an incidental or coördinating function. It was said in connection with this ruling that the fact that a corporation may have engaged in certain business for which it did not have corporate power, cannot be used as a justification for a continuation of that business. *Re Greensburg Storage & Transfer Co.* (*Application Docket No. 28059*).

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

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COMPRISING THE DECISIONS, ORDERS, AND RECOMMENDATIONS OF COURTS AND COMMISSIONS

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PUBLIC UTILITIES REPORTS

WISCONSIN PUBLIC SERVICE COMMISSION

Re Wisconsin Power & Light Company

[2-U-1000.]

Rates, § 323 — Electric — Industrial power — Demand.

1. A provision for billing demands on a monthly basis in order that customers might make more flexible use of industrial power service was approved in place of a previous provision that the billing demand in any month should not be less than 75 per cent of the maximum billed demand of the preceding twelve months, p. 3.

Rates, § 336 — Electric — Industrial power — Minimum bill.

2. A minimum demand charge in an electric rate schedule for industrial customers was replaced by a minimum bill which should not be less than 50 per cent of the highest monthly maximum demand charge of the preceding twelve months, this minimum to include the use of energy, p. 3.

Rates, § 327 — Industrial power — On-peak demand.

3. A provision in a schedule of rates for industrial power customers that if a customer's measured on-peak demand in any month exceeds 25 per cent of the highest off-peak measured demand of the preceding twelve months, the customer shall then become an on-peak user and his entire demand be billed at the on-peak rate not only for the month in which 25 per cent of the off-peak demand was exceeded but in each subsequent month of the contract period, inflicts too severe a penalty on the customer and seriously hampers a full use of the service, p. 3.

Discrimination, § 103 — Electric rates — Billing for on-peak service.

4. The failure of an electric utility to apply its rule for billing at on-peak rates when a customer's measured on-peak demand in any month exceeds 25 per cent of the highest off-peak measured demand of the preceding twelve months, in order to avoid the resultant increase in a customer's bill, involves an unreasonable discrimination between customers, p. 3.

Rates, § 327 — Industrial power — Billing demand charges.

5. Provision was made in an industrial power rate schedule for billing

demand charges at a uniform rate throughout the year in lieu of on-peak and off-peak provisions, this provision being inserted to take care of customers wishing to avoid seasonal fluctuation of demand billings under the on- and off-peak clauses, p. 3.

[June 5, 1936.]

APPLICATION *for authority to revise rates for industrial power service; rate revision authorized.*

By the COMMISSION: Under date of April 22, 1936, the Wisconsin Power and Light Company applied to the Commission for authority to revise the present filed rate for large industrial power service. Preliminary investigation by the Commission staff indicated that although application of the proposed schedule would reduce the company's revenues approximately $8,000 per year, there was the possibility that the bills of some customers might be increased. It further developed that the present rate had not been properly administered and that as a result of this misapplication of the rate a discriminatory situation prevailed. In view of these circumstances the Commission concluded that a formal investigation was necessary.

Hearing in this matter was held on May 23, 1936, at Madison. The following appearances were entered:

Wisconsin Power and Light Company, by B. E. Miller, Secretary, J. F. Swarner, P. De Leon, and Schubring, Ryan, Peterson, and Sutherland, Attorneys, by Mr. Ryan; city of Fond du Lac, by Lawrence Jones, Councilman.

The present rate for industrial power service, designated in the company's filed schedule as Rate No. 203, follows. [Schedule omitted.]

In its application for authority to revise the above rate the company stated that it desired to base the energy charge on coal prices which more nearly represent the present-day costs of coal and to make more liberal certain other features of the rate which would not only be of benefit to the customers, but would make the rate easier to administer. The company contends that certain provisions of the present rate deter an extensive use of the service and further, that these provisions have in the past led to the misapplications of the rate previously mentioned. Following a statement of the proposed rate is a more detailed discussion of the changes therein and the effect which these revisions will have on billings to the customers. [Schedule omitted.]

As previously mentioned one of the objectives in revising the present rate was to establish an energy charge consistent with present-day coal prices. The energy charge in the present schedule is based on coal at $6.50 per ton whereas the company has for several years been buying coal for not more than $4.50 per ton. Both the present and proposed rates contemplate an adjustment of .015 cents per kilowatt hour for each 10 cents variation above or below the base price. Under the present rate when the price of coal is $4.50 per ton, the customer received a cred-

it of .30 cent per kilowatt hour. In making the base price $4.50 per ton, this credit has been removed so that unless other adjustments were made, the price per kilowatt hour in the proposed rate would be increased by .30 cent. This increase has been partially offset by reducing the price per kilowatt hour in the proposed rate .25 cent. The remaining increase of .05 cent per kilowatt hour has been removed by lowering the demand charge and liberalizing certain other provisions of the rate. The principal revisions contemplated in the proposed rate are discussed below.

[1-5] The present rate provides that the billed demand in any month shall not be less than 75 per cent of the maximum billed demand of the preceding twelve months. In the proposed rate, provision is made for billing demands on a monthly basis, in order that customers may make more flexible use of the service. Under the proposed rate there is substituted for the minimum demand charge a minimum bill which shall not be less than 50 per cent of the highest monthly maximum demand charge of the preceding twelve months, this minimum to include the use of energy.

The present rate further provides that if a customer's measured "on-peak" demand in any month exceeds 25 per cent of the highest "off-peak" measured demand of the preceding twelve months, that customer shall then become an "on-peak" user and his entire demand be billed at the "on-peak" rate not only for the month in which 25 per cent of the "off-peak" demand was exceeded but in each subsequent month of the contract period. The Commission is of the opinion that such a provision inflicts too severe a penalty on the customer and seriously hampers a full use of the service. The company cited at least one instance in which a normally "off-peak" customer was forced to turn down a contract because of the realization that acceptance meant violation of the above provision in the rate. There have also come to the Commission's attention certain cases in which the company purposely neglected to apply this rule because of the resultant increase in the customer's bill. It is evident that the company believes the present rule is unworkable. Furthermore, such procedure involves an unreasonable discrimination between customers which must be remedied immediately. Under the proposed rate the company will furnish metering equipment which will enable the utility to determine both the "on-peak" and "off-peak" demand and the customer will be billed accordingly at the first steps of the appropriate schedule.

The new rate provides for billing demand charges at a uniform rate throughout the year, in lieu of the "on-peak" and "off-peak" provisions. This provision was inserted to take care of customers who wish to avoid the seasonal fluctuation of demand billings under the on- and off-peak clauses. A check of the billings of customers in this rate classification indicates that no customers will be adversely affected, and some will be benefited.

During the course of this investigation the Commission analyzed in detail the monthly bills of all customers to whom the company is now rendering industrial power service. This an-

alysis indicated that had all customers been billed in the past in strict accordance with the present rate, each customer would obtain an annual saving on the proposed rate. The Yates-American Machine Company of Beloit, because of peculiarities in past billing at first showed a considerable increase on the proposed rate, but it has since been determined that this customer will qualify for the seasonal rate and thus will obtain an annual saving in its power bills.

After consideration of all available facts in the present case, the Commission finds and determines that the present industrial power rate of the Wisconsin Power and Light Company, unless modified as herein provided, is unreasonable. The Commission further finds and determines that for the purposes of this order, the proposed rate set forth above is reasonable.

It is therefore *ordered* that beginning with the effective date of this order, the Wisconsin Power and Light Company shall withdraw and discontinue the application of its present rate for industrial power service, and shall substitute therefor and apply the rates set forth in the foregoing opinion.

It is *further ordered* that the changes herein ordered shall be made effective for all bills rendered following the date of this order.

NEW YORK DEPARTMENT OF PUBLIC SERVICE, METROPOLITAN DIVISION, TRANSIT COMMISSION

Re New York Railways Corporation

[Case No. 3264.]

Corporations, § 10 — Commission jurisdiction — Reorganization plan — Federal Bankruptcy Act.

The Transit Commission has no jurisdiction over a plan of readjustment and motorization of a street railway corporation under § 77B of the Federal Bankruptcy Act.

Constitutional law, § 9 — Delegation of legislative power — Adoption of future Federal act.

Statement that an attempt to adopt future Federal acts as part of the laws of the state, in connection with jurisdiction conferred upon the Commission by state law, would probably be an unconstitutional delegation of legislative power, p. 5.

[May 23, 1936.]

HEARING *on question of jurisdiction of Commission as to plan of readjustment and motorization of street railroad corporation under § 77B of the Federal Bankruptcy Act; petition dismissed for lack of jurisdiction.*

FULLEN, Chairman: New York Railways Corporation filed with this Commission on September 9, 1935, a petition submitting a "Plan of Readjustment and Motorization of New York Railways Corporation dated March 19, 1935," which plan had been proposed for the consideration and approval of the United States district court for the southern district of New York, in proceedings instituted by the company for its reorganization under § 77B of the Federal Bankruptcy Act.

The company's petition to the Commission alleged that the plan was submitted "for action in accordance with said § 77B" and prayed "for such relief as may be just and proper in the premises." As the Commission doubted its jurisdiction to entertain the petition, it adopted an order on September 18, 1935, for a hearing on the question of jurisdiction. No hearing has been held but the matter has been adjourned from time to time at the request of counsel for the petitioner, who now asks that it be disposed of without a hearing.

The Commission is convinced that no jurisdiction has been conferred upon it over an application of this kind.

Section 55-a of the Public Service Law provides that reorganizations of street railroad corporations, etc., "pursuant to §§ 96 and 97 of the stock corporation law, and such other laws as may be enacted from time to time" shall be subject to the supervision and control of the Commission and that no such reorganization shall be had without the authorization of such Commission.

Reorganizations under §§ 96 and 97 are those made following a judicial sale of the corporate property and franchises. As there has been no such sale of the property and franchises of New York Railways Corporation, the Commission has no jurisdiction under those sections; and, as no other laws have been enacted by the legislature of this state, there is no state statute conferring jurisdiction over the plan submitted by the aforesaid petition to the Commission.

It seems that the Commission can derive its powers only from the legislature of this state and that no power can be conferred upon it by the Federal Congress. Nothing in § 77B indicates that Congress attempted to confer any power on state Commissions. The language of § 55-a of the Public Service Law, giving supervision and control over reorganizations pursuant to "such other laws as may be enacted from time to time," should be construed as meaning such other laws as may be enacted from time to time by the legislature of this state. An attempt to adopt future Federal acts as part of the laws of this state would probably be an unconstitutional delegation of legislative power.

The Commission executed on September 18, 1935, and on the following day filed with the clerk of the United States district court, a certificate under § 77B (Clause (e) (2)) certifying that the public interest is affected by the plan of reorganization. That was done because it was clear that the plan submitted did affect the public interest. It proposed the abandonment of the company's street railway, the substitution thereof of busses to be operated by the New York City Omnibus Corporation, the transfer of certain real estate and other

property from New York Railways Corporation to New York City Omnibus Corporation, the assumption by New York City Omnibus Corporation of a portion of the bonded indebtedness of New York Railways Corporation and the issuance by New York City Omnibus Corporation of stock and equipment obligations.

Since filing that certificate, the Commission, recognizing the resulting benefits to the public from the complete motorization of the lines of the New York Railways Corporation and the operation of all the routes covered by the franchise granted to the New York City Omnibus Corporation, has given all necessary authorizations, approvals and consents which it is empowered or permitted to give in accordance with the statutes of the state. These have included the adoption of orders, after hearings, granting the following applications:

Case No. 3156—Application of New York City Omnibus Corporation for a certificate of public convenience and necessity.

Case No. 3287—Application of New York Railways Corporation and the New York and Harlem Railroad Company for approval of declarations of abandonment of street surface railway routes.

Case No. 3274—Application of New York City Omnibus Corporation for authority to acquire the capital stock of Madison Avenue Coach Company, Inc.

Case No. 3275—Application of New York City Omnibus Corporation for authority to acquire the capital stock of Eighth Avenue Coach Corporation.

Case No. 3276—Application of New York City Omnibus Corporation for authorization of the assumption of $3,555,306.48 principal amount of prior lien mortgage 6 per cent bonds, $115,000 principal amount of Central Crosstown 6 per cent purchase bonds and $286,015 principal amount of Sixth avenue purchase mortgage 40-year 5 per cent bonds, all issued by New York Railways Corporation, and the issuance of 458,450 shares without par value of capital stock and an additional 42,633 shares to be covered by option warrants.

Case No. 3280—Application of New York City Omnibus Corporation for authority to incur indebtedness in purchase of motor coaches.

Case No. 3299—Application of Fifth Avenue Coach Company for authorization of and consent to the acquisition of shares of the capital stock of New York City Omnibus Corporation. (In this case, the Commission has considered at the applicant's request and is now granting only that part of the application which asked for authority to acquire those shares of such stock which Fifth Avenue Coach Company proposes to acquire as the owner of income bonds of New York Railways Corporation, *viz.*, 243,108 shares of the 458,450 shares authorized to be issued by the Commission's order in Case No. 3276. The proceeding has been kept open with respect to those portions of the application which requested the acquisition of additional shares.)

These actions taken by the Commission cover all phases of the public interest contemplated by the certificate filed by the Commission under

§ 77B (Clause (e) (2)) of the Federal Bankruptcy Act.

It is clear to the Commission that it has no power to determine the question of the relative treatment accorded by the plan of reorganization as between the different classes of security holders. That is a matter for determination by the Federal court in the pending proceedings under § 77B and, we are informed, has been the subject of hearings before the special master appointed by the district court, and before that court and the circuit court of appeals.

As the Commission is satisfied that, except as indicated by the adoption of the orders hereinbefore mentioned, it has no jurisdiction over the plan, an order should be made dismissing the petition dated and filed with the Commission on September 9, 1935.

CONNECTICUT PUBLIC UTILITIES COMMISSION

Re The Connecticut Power Company et al.

[Docket No. 6311.]

Consolidation, merger, and sale, § 6 — Commission jurisdiction — Private rights of stockholders.

1. The Commission, in exercising its authority to determine whether a proposed plan of merger may be adverse to the public interest, has no authority to inquire into the private rights of stockholders and may not withhold its approval of the merger because of objections by minority stockholders to the proposed ratio of exchange of stock, p. 11.

Consolidation, merger, and sale, § 18 — Matters considered — Authority to merge.

2. The existence of authority to merge is an essential condition to approval of any plan of merger by the Commission, although the ultimate determination of any questions as to legal formalities does not rest with the Commission, p. 12.

Consolidation, merger, and sale, § 2 — Right of corporation to merge.

3. A corporation chartered, among other things, to "consolidate with electric light companies, the consolidated company to have all the rights, privileges, franchises, and properties of the consolidating companies," and by subsequent mergers and consolidations merging or consolidating with other companies having the charter right to "merge, consolidate, and make common stock with other corporations in similar business"—one of such companies having the charter right to "make common stock with" corporations authorized to manufacture, use, or sell gas, electricity, or water—possesses all the rights and powers granted to it or any of its constituent companies and has the right to merge a gas and electric utility corporation, p. 12.

Consolidation, merger, and sale, § 2 — Right to be merged.

4. A gas and electric utility corporation having no express authority to merge or consolidate with other corporations may be merged with a cor-

poration having a charter which provides that companies merging or consolidating with it are "authorized to make such merger or consolidation," p. 13.

Consolidation, merger, and sale, § 6 — Commission jurisdiction — Legal formalities.

5. The Commission, in determining whether a merger plan should be approved, has no jurisdiction to determine whether legal formalities to be carried out in the event of a merger have been met, p. 14.

Consolidation, merger, and sale, § 51 — Merger agreement — Arbitration provision — Dissenting stockholders.

6. A clause, in a merger agreement, for arbitration of the rights of dissenting minority stockholders is unobjectionable, p. 14.

Consolidation, merger, and sale, § 29 — Objections to merger — Question of local control.

7. The question of local control of a public utility corporation is a matter of business policy and not sufficient ground to justify a refusal to approve a proposed merger of a subsidiary corporation with a holding company controlling a majority of its stock, p. 14.

Consolidation, merger, and sale, § 23 — Grounds for approval — Avoidance of taxes — Economies of management.

8. Definite savings in respect to taxes and other costs of management were held to justify the merger of a subsidiary gas and electric corporation with its parent corporation as being in the public interest, p. 14.

[May 22, 1936.]

JOINT *petition of public utility corporations for approval of proposed merger; merger approved.*

APPEARANCES: A. D. Barney, Counsel and C. L. Smiddy, Counsel, for the petitioners; Hon. Alfred N. Phillips, Jr., Mayor, for the city of Stamford; Weissman & Maretz of New Haven (Abraham S. Weissman, and David S. Korn, of Counsel), for minority stockholders: Marvin & Sanford, Inc., New Haven, and Adele I. Yudkin, New Haven; Walter Breslav, for minority stockholders; Charles L. Kirschner, Fannie R. Allman, Milton & Ella Strauss, Samuel Krosner, and Sam Hershman (all of New Haven); M. S. Rogers, New Haven, for himself.

By the COMMISSION: The Stamford Gas and Electric Company and The Connecticut Power Company filed with the Commission on April 11, 1936, the following petition:

"TO THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CONNECTICUT:

"The Connecticut Power Company and The Stamford Gas and Electric Company jointly and severally represent that:

"1. There has been executed on their part, under their corporate seals, by their proper officers duly authorized thereunto, subject to the approval by this Commission in accordance with the provisions of Chap. 191 of the Public Acts of 1935, being § 1414c of the cumulative supplement to the

general statutes of Connecticut, and in the event of approval by this Commission, subject to further approval by the stockholders of each of said corporations at meetings to be called for that purpose, and agreement of merger, copy of which is annexed hereto and marked "Exhibit A."

"2. Said agreement of merger contains a complete statement of the rights, powers, and franchises of both companies, of the stock and bonds of both companies outstanding, and of the terms and conditions of said merger.

"3. Both companies are authorized to manufacture, use, or sell gas or electricity in the state of Connecticut.

"4. The Connecticut Power Company has the right to merge with and into itself other corporations authorized to manufacture, use, or sell gas or electricity in the state of Connecticut, and all such other corporations are authorized to merge with and into The Connecticut Power Company. Said agreement of merger contains a fairly complete statement of said powers to merge, and your petitioners have particular reference to the power stated in Vol. 14 of the Special Laws of Connecticut, page 204.

"5. The purpose of the merger is to effect economies through savings in taxes by the elimination of intercorporate dividends and through other economies; to simplify the corporate structure of The Connecticut Power Company and to make The Connecticut Power Company so far as possible strictly an operating company.

"6. The Connecticut Power Company now owns 99.04 per cent of the issued and outstanding stock of the petitioner, The Stamford Gas and Electric Company, which stock was acquired by The Connecticut Power Company with the approval of the Public Utilities Commission, Docket No. 5401. The Connecticut Power Company intends to further petition this Commission for the approval of a merger of the Manchester Electric Company, The Union Electric Light and Power Company, and The Thomaston Electric Light Company with and into The Connecticut Power Company.

"7. Your petitioners further represent that if the Commission shall approve said merger, it will be necessary that the stock of The Stamford Gas and Electric Company be voted in favor of the approval of said merger, and that subdivision (f) of Chap. 191 of the Public Acts of 1935, being § 1414c, of the cumulative supplement to the general statutes of Connecticut, provides that no holding company shall exercise authority or control over any gas, electric, or water company incorporated by this state without first having obtained the approval of the Commission.

"*Wherefore* your petitioners pray that this Commission, after hearing had upon this petition, approve said agreement of merger and the voting in favor of said merger of any stock of The Stamford Gas and Electric Company by any holding company.

"Dated at Hartford, Connecticut, this 9th day of April, 1936.

"THE CONNECTICUT POWER COMPANY,
"By *Viggo E. Bird*
"THE STAMFORD GAS AND ELECTRIC COMPANY,
"By *Alfred W. Dater*"

Agreement of merger ("Exhibit A" of petition) is not set forth herein, but is on file.

Said joint petition was assigned for a hearing to be held at the office of the Commission in Hartford on April 22, 1936, at 10:30 o'clock in the forenoon. Notice of the time and place of hearing was given by the secretary of the Commission to interested parties and by advertisement in the public press, as on file will appear. At said time and place the petitioners appeared by counsel. Minority stockholders, as set forth above, also appeared by counsel or in person in objection to the petition.

The Connecticut Power Company and The Stamford Gas and Electric Company are electric and gas utilities operating under charters granted by the general assembly. The first-named company was originally organized as The Marine Power Company under a charter granted in 1899. Its name was changed to The Connecticut Power Company in 1905 by the superior court and since then it has secured additional rights by merger with other companies as set forth in detail in the petition. At the present time it has outstanding two issues of bonds for an aggregate amount of $2,955,000 and has an outstanding capital of $16,504,575 divided into 660,183 shares of the par value of $25 each.

The second-named company was organized under a charter granted in 1893 through the merger of the Stamford Gas Light Company and The Stamford Electric Lighting Company. It has oustanding a bond issue of $14,000 and has a capitalization of $6,000,000 divided into 60,000 shares of the par value of $100 each.

In 1929 The Connecticut Power Company petitioned this Commission for approval of a plan to acquire not less than 70 per cent of the capital stock of The Stamford Gas and Electric Company by the exchange of shares in the ratio of 4 shares of Connecticut Power Company for 1 share of Stamford Gas and Electric Company. The Commission, after hearing the parties, entered an order approving the plan submitted (Docket No. 5401) and The Connecticut Power Company now owns or controls 99.04 per cent of the capital stock of The Stamford Gas and Electric Company. There remains in the hands of individual investors, who have not accepted the company's offer of exchange, approved by the Commission as aforesaid, 577 shares of the stock of the Stamford Company.

The plan presented to the Commission in 1929 did not call for any change in the corporate structure of the Stamford Company and approval was given on the ground that the ratio of exchange was on a basis of par values and substantially reflected the respective book values of the shares of the two companies.

These two companies now seek the approval of a plan for the merger of the Stamford Company with The Connecticut Power Company. The proposed merger is set out in a petition signed by both companies under date of April 9, 1936, to which is attached a copy of an agreement executed on behalf of both companies having the same date.

The terms and conditions of the proposed merger are contained in the form of agreement attached to the petition which had been approved by the

boards of directors of both companies, but is expressly subject to the approval of this Commission and of the stockholders. The merger as set out in this agreement contemplates the termination of the separate corporate existence of the Stamford Company. The holders of shares of the Stamford Company other than shares owned or controlled by The Connecticut Power Company are to receive shares of the power company in the ratio of four for one. The power company is to assume and pay all indebtedness of the Stamford Company and upon completion of the transaction all the shares of the Stamford Company will be canceled.

The ratio of exchange is on a basis of par value and is the same as received the approval of this Commission in 1929, pursuant to which approval the power company has acquired its present ownership in the Stamford Company. As already stated this ratio in 1929 also substantially reflected the book values of the shares of the two companies and their earnings. From petitioner's Exhibit 2, Schedules F–1 and F–2, it appears that during the years since 1929 earnings and book values of these companies have maintained substantially the same relation to each other.

In Schedule F–2 the items of replacement reserves have been treated as surplus and nothing has been deducted for depreciation. It is undoubtedly true that under the Connecticut practice these reserve accounts do not accurately show a proper depreciation. However, if these reserves as shown by the reports of these companies to this Commission are treated as liabilities and deducted from the fixed capital items the result shows substantially the same ratio of book values. By this method the book value of Stamford shares as of September 30, 1929, was about $106 and of the power company about $27. As of December 31, 1935, Stamford shares had a book value of about $108 and power company shares about $27.

[1] Objection to this merger has been made in behalf of certain minority stockholders. Apart from certain technical issues which will be discussed later, the opposition of these stockholders appears to resolve itself into a question of whether the proposed ratio of exchange will afford them adequate compensation for their holdings in the Stamford Company. Appearance was also entered in behalf of the city of Stamford to oppose the merger. The ground of this objection is that the merger will tend to weaken the local character of management and may result in an unfair burden of rates on local consumers for the purpose of aiding other portions of the power company's system where operations may be less profitable.

Since this Commission was created in 1911 the courts have repeatedly defined its status as an administrative body charged with supervision of public service companies in the public interest. Its orders and proceedings must in every instance have their foundations in public convenience and necessity. Though in some matters the Commission acts in a *quasi* judicial capacity, it is not a court and has no jurisdiction to adjudicate private disputes.

In 1915 the duties of the Commis-

sion were increased by requiring it to pass on mergers or consolidations of public service companies and prohibiting any such merger or consolidation without the approval of the Commission. The approval by the Commission is only one incident to the completion of a merger. The statutory formalities falling within the jurisdiction of the secretary of state must be met and the private rights of stockholders may demand consideration by the courts. The act has always been construed as reposing in the Commission the responsibility of examining the terms and conditions of a proposed plan of merger or consolidation in an effort to determine whether any part of it may be adverse to the public interest, primarily the interest of consumers.

To a limited extent the interest of consumers and what may be described as the public interest of investors are identical. Certainly in so far as companies may be prevented from taking up unjustified asset values with the resultant opportunity for excessive capitalization the investors' interests will be guarded. In all likelihood there are many other matters in respect of which a consideration of a plan of merger primarily in the interest of consumers will also afford protection to investors. However, this does not clothe the Commission with authority to determine private rights. Situations are readily conceivable in which owing to market conditions the private interest of investors might be definitely adverse to the public interest of consumers. It is not to be assumed that the legislature intended to place the Commission in such a position but rather that it was intended to leave the determination of private rights to the courts.

Though certain changes in the duties of the Commission were made by Chap. 191 of the Public Acts of 1935 (Cum. Supp. 1935, § 1414c) these were mostly with reference to procedure and the actual addition to the Commission's powers were of a very limited nature. So far as the duties with respect to mergers and consolidations are concerned the act effected no change. Under these circumstances the Commission rules that in so much as the ratio of exchange is just and equitable from the public standpoint it cannot undertake to inquire into the private rights of stockholders and may not withhold its approval on any such ground.

[2, 3] Corporations such as public service companies operating under special charters have no general powers to merge or consolidate with other corporations. The ultimate determination of any questions as to legal formalities does not rest with this Commission, yet the existence of authority to merge or consolidate is an essential condition to approval of any plan by the Commission.

From an examination of the enactments pertinent to the pending petition it appears that the original charter of The Marine Power Company included authority in § 8, to "sell to, purchase, lease, or consolidate with" electric light companies, the consolidated company to have "all the rights, privileges, franchises, and properties" of the consolidating companies. Spec. Laws, Vol. 13, page 266.

In 1913 this company, then named The Connecticut Power Company, was merged or consolidated with The

Eastern Connecticut Electric Power Company. The charter of the latter company included the power (§ 9) to "merge, consolidate, and make common stock with other corporations in similar business under the name of either of them but with all the powers of the corporations merged or consolidated." Spec. Laws, Vol. 14, page 297.

Again in 1913 The Connecticut Power Company was merged or consolidated with The New London Gas and Electric Company. The charter of this company included power (Spec. Laws, Vol. 12, page 702, § 5) "to make common stock with, . . . The New London Gas Light Company or The Oneco Manufacturing Company, or both, or any other company authorized to do a similar business, . . ."

After providing that the terms and conditions shall be determined by the directors, that there shall be ratification by the stockholders and a certificate filed with the secretary of state, the section concludes with the provision, "whereupon such company shall thereby become merged, with all its rights, powers, franchises, and privileges in The New London Gas and Electric Company, and shall not be required to maintain any separate corporate existence."

By an amendment of this New London Company's charter in 1903 (§ 2, Spec. Laws, Vol. 14, page 204), these powers were restated to permit it to make common stock with "any other corporation authorized to manufacture, use, or sell gas, electricity, or water, or to maintain and operate an electric or street railway. . . ." This amendment further provides that "any company leasing or selling to or merging or consolidating with this company is hereby authorized to make such lease, sale, merger, or consolidation. . . ."

Though the use of the words "merge" and "consolidate" and the expression "make common stock with" without apparent regard for technical distinctions may be somewhat confusing, there can be no uncertainty as to the present powers of The Connecticut Power Company to merge with corporations engaged in the same business. In each merger or consolidation that has occurred it has been expressly provided that The Connecticut Power Company should acquire all the rights, privileges, and franchises of the corporations merged or consolidated. From this it follows that The Connecticut Power Company now possesses all the rights and powers granted by the general assembly from time to time to it or any of its constituent companies.

[4] The Stamford Gas and Electric Company has no express authority to merge or consolidate with other corporations. However, it has been noted that the charter of The New London Gas and Electric Company, now a part of the charter of The Connecticut Power Company, provides that companies merging or consolidating with it are "authorized to make such merger or consolidation." Furthermore our courts have held that an express power in the charter of public service corporations to buy or to lease implies a power in another similar corporation to sell or lease its property, though its charter contains no express authority to that effect. New York & N. E. R. Co. v. New York,

N. H. & H. R. Co. (1884) 52 Conn. 274, 276; Huntting v. Hartford Street R. Co. (1900) 73 Conn. 179, 181, 46 Atl. 824. Therefore, it must be concluded that these companies have sufficient authority from the general assembly to permit the proposed merger.

[5, 6] The only provisions as to detailed legal formalities to be carried out in the event of a merger are found in the charter of The New London Gas and Electric Company (Spec. Laws, Vol. 12, page 702) and in the charter of The Sharon Electric Light Company (Spec. Laws, Vol. 14, page 863). As already stated the determination whether these formalities have been met does not rest with this Commission. However, it does appear that the agreement of merger makes provision for the several statutory requirements. At the hearing it was suggested in behalf of the petitioners that the merger agreement might be amended to include a clause for arbitration of the rights of any dissenting minority stockholders. If the charter of The Sharon Electric Light Company controls full opportunity is afforded any minority to have their rights adjudicated. There can be no objection to an amendment of the merger agreement to include provision for arbitration and the order of the Commission will include provision for such amendment before submission of the proposed merger to the stockholders.

[7] It remains to consider the objections made on behalf of the city of Stamford. In so far as the subject of local control is involved in these objections it is obvious that since the acquisition of a majority of the stock of the Stamford Company by The Connecticut Power Company any such details of management have been subject to determination by the majority. A belief in local management was strongly asserted at the hearing before this Commission in 1929 and has been reasserted at the hearing in this matter. Nevertheless it is a matter of business policy and not sufficient ground to justify a refusal to approve the proposed merger.

The objection that such a merger might result unfairly to the present customers of the Stamford Company calls for serious consideration. Its soundness was recognized by the petitioners and in Petitioner's Exhibit 2, Schedule G, a plan was outlined for preserving the integrity of the Stamford Company from an accounting standpoint. The accounting procedure outlined in the company's exhibit will prevent any confusion of any items essential to a proper determination of reasonable rates in the territory served by the Stamford Company and the dangers set up in opposition to the proposed merger will be overcome.

[8] Entirely apart from the plan suggested by the company, the Commission is satisfied that through suitable provisions in its order of approval and its satisfactory control of utility accounting, this difficulty can be surmounted. In view of the very definite savings in respect to taxes and other costs of management the Commission is of the opinion that the proposed merger will be in the public interest and should be approved for the reasons stated in spite of the objections raised.

ORDER

Wherefore, it is *ordered* and *decreed* that the terms and conditions of said merger and merger agreement as set forth in said petition and merger agreement be and they hereby are approved, and that said proposed merger on said terms and conditions should be and is approved, provided, however, and upon conditions:

(1) That said merger agreement may be amended by the directors to include provision for arbitration of the rights of any stockholder claiming to be aggrieved by the proposed ratio of exchange, in substantially the following form:

"In lieu of issuing and exchanging shares of its common stock as aforesaid, The Connecticut Power Company shall pay to holders of common stock of The Stamford Gas and Electric Company (other than itself and said voting trustees) who shall give notice in writing to The Connecticut Power Company on or before ten days after the effective date of merger that they desire cash for their stock, the fair value of their stock as of the effective date of merger. In the event that the fair value of such stock cannot be agreed upon between such stockholders and The Connecticut Power Company, then said value shall be determined by arbitration as follows:

"The company or any such stockholder shall apply to the superior court for the county of Hartford for the appointment of an arbitrator as provided in § 5843 of the General Statutes, Revision of 1930, and proceedings shall be had in accordance with Chap. 302 of the General Statutes.

"This agreement of The Connecticut Power Company is conditioned upon any such shareholder requesting cash hereunder contracting with said company to accept said fair value as established under the provisions hereof and upon payment thereof to surrender his certificates to the Company for cancellation."

and that a copy of such amended agreement be filed with this Commission.

(2) When the merger shall have been completed The Connecticut Power Company shall so arrange its accounting system as to continue all underlying data necessary to establish its investment in fixed capital, operating revenues and expenses, etc., relating particularly to the present system of The Stamford Gas and Electric Company independently of similar items concerning other portions of the company's system so that such items concerning the present Stamford Gas and Electric Company's system, shall, at all times, be as readily available to the Commission as if there had been no merger of these companies. Also the company shall submit to the Commission for verification and approval the necessary journal entries when prepared to record the proposed merger of the companies.

(3) That such merger shall be ratified by a legal vote of the stockholders of each of the petitioning companies on or before December 31, 1936, and certified copies of such votes be filed with this Commission within ten days after such ratification.

(4) That within ten days after

ratification of said merger by the stockholders of said companies as hereinbefore provided, and the completion of all statutory formalities to the satisfaction of the secretary of state, each of said petitioning companies shall file with the Commission such notices as are prescribed by § 3617 of the General Statutes.

(5) The Commission, in accord with the provisions of § 1414c (f) of the cumulative supplement to the general statutes, further approves the voting in favor of said merger of any stock of any of the petitioning companies held by any holding company.

We hereby direct that notice of the foregoing be given by the secretary of this Commission by forwarding true and correct copies thereof to parties in interest, and due return make.

MISSOURI PUBLIC SERVICE COMMISSION

Re Missouri Gas & Electric Service Company

[Case No. 9144.]

Corporations, § 10 — Commission jurisdiction — Reorganization — Equities of security holders.

1. The Commission, on an application for approval of a plan of reorganization under § 77B of the Bankruptcy Act, will consider only the plan that has been laid before it and will not attempt to discuss the equities that may belong to the various parties in the bankruptcy proceeding; and the Commission cannot indicate to the various security holders how they should pro-rate their interest in the new corporation, since that is the purpose of their appearing before the Federal court, p. 22.

Security issues, § 88 — Proportion of bonds — Reorganization.

2. Bond issues under a proposed plan of reorganization amounting to 68.5 per cent of the bare physical useful property and 66.01 per cent of reproduction cost less depreciation constitute a greater percentage of the physical property than should be provided for under a plan of reorganization brought about because of financial difficulties in which the company has found itself, p. 23.

Corporations, § 22 — Reorganization — Approval of plan — Excessive bond issue — Retirement provision.

3. The only justification for authorization of a reorganization plan under § 77B of the Bankruptcy Act, where the percentage of bonds would be excessive in relation to physical property, was held to be a provision for the retirement of bonds through a sinking fund, p. 23.

[May 22, 1936.]

RE MISSOURI GAS & ELECTRIC SERVICE CO.

APPLICATION *for authorization and approval of plan of reorganization under § 77B of the Federal Bankruptcy Act; granted with reservations.*

ANDERSON, Commissioner: This matter is before the Commission by an application filed on April 8, 1936, on behalf of the Missouri Gas and Electric Service Company, a Missouri corporation, for authorization and approval of a plan of its reorganization. The applicant is engaged in the business of a public utility and the manufacturing and sale of ice. As a public utility it furnishes gas and electric service in some 42 towns and communities, corporated and unincorporated, located through the west central part of the state. It furnishes water at wholesale rates to one community.

On March 9, 1935, the applicant filed its voluntary petition for a reorganization pursuant to § 77B of Chap. VIII of the Act of Congress entitled "An act to establish a uniform system of bankruptcy throughout the United States," (1898), as amended, in the United States district court for the western division of the western district of Missouri. Following the filing of the application in this cause committees representing the various interests including the first mortgage bonds and the preferred stockholders organized for the purpose of attempting to approve a plan of reorganization. The applicant states that those committees have conferred with the creditors and the applicant in the development of a plan of reorganization. A copy of the proposed plan of reorganization is attached to said application.

It is alleged in the petition of the applicant that the objective sought in the plan of reorganization is, first, that the capital structure of the reorganized company shall be such as to avoid future financial difficulties as far as can be foreseen, the securities to be issued being based upon the present and reasonable expectations of earnings adjusted to the present values of the properties, with due consideration of proper reserves and maintenance expenditures, as may be required. Second, that a proper contribution and distribution shall be made by and to those entitled to participation in the reorganization, based on the equities involved and taking into consideration, in the case of the preferred stockholders, the value of their coöperation to the company and its creditors. Third, security holders should receive a return on their securities consistent with their respective interests, to the extent that this will not jeopardize the operations of the reorganized company and continuity of its service that it is required to render to the public as a utility.

There was a hearing had on said application before two members of the Commission at its hearing room in Jefferson City, Missouri, on the 20th day of April, 1936, at which time and place all interested parties were given an opportunity to appear and be heard. Those appearing at the hearing were:

Counsel and representatives of the applicant; counsel for the Stockholders Protective Committee of Lafay-

ette county; counsel for the Stockholders Protective Committee of Ray county; counsel for the Middle West Corporation; counsel for a Bondholders Committee; special master and friend of the court, Hon. Maurice M. Milligan.

The case after hearing was submitted on the record.

A statement on behalf of the Bondholders Committee has been received since the hearing. Also a memorandum in reply to the statement of the Bondholders Committee made by attorneys for the Middle West Corporation has been received and a statement in support of the applicant's plan of reorganization filed by counsel for the applicant has been received. A copy of the plan of reorganization, as proposed, is attached to the application. The plan provides that the reorganization shall be under the direction of a reorganization committee composed of a representative of each party interested. It sets forth in detail the assets and earnings, outstanding securities to be dealt with, securities to be issued under the plan, the terms of the new first mortgage and refunding 3½ per cent—4 per cent —4½ per cent bonds, and the securities therefor, the capital stock to be issued and the method of effecting the plan.

There is attached to the application the following schedules:

Schedule 1. Statement of property valuations.

Schedule 2. Income statement of Missouri Gas and Electric Service Company for the years 1934, 1935, and estimated for the year 1936.

Schedule 3. Cash forecast of receipts and disbursements of the Missouri Gas and Electric Service Company for the calendar year 1936.

Schedule 4. Chart showing securities of and claims against the present company, and new securities distributable therefor.

Schedule 5. Balance sheet of Missouri Gas and Electric Service Company as of December 31, 1935, and *pro forma.*

The applicant claims that the proposed plan of reorganization will substantially reduce its outstanding capitalization of the applicant, or its successors under the plan, if one be created. After the proposed reorganization the fixed interest charges will be substantially reduced. The securities of and the claims against the applicant, to be dealt with and adjusted under the plan, are as follows: (exclusive of interest and accumulated dividends.)

First mortgage and refunding 6% gold bonds, series A, due September 1, 1944		$712,000.00
First mortgage and refunding 5% gold bonds, series B, due July 1, 1957		1,152,700.00
Total		$1,864,700.00
Notes payable		$431,972.37
	Shares	
7% cumulative prior lien preferred stock (par value $100)	4,674	$467,400
$6 cumulative preferred stock (no par, stated value $100)	7,901	$790,100
Common stock (no par, stated value $100)	8,698	$869,800

It is stated in the plan that the interest and dividends accrued and unpaid on the above securities and claims will, unless specifically provided for, be extinguished and canceled. Under

the plan the new securities of the reorganized company to be issued will be as follows:

First mortgage and refunding 3½%—4%—4½% bonds, due April 1, 1956	$1,476,630

Capital stock	Shares
Common stock	25,375

The applicant claims under its proposed plan of reorganization the fixed charges will be reduced from approximately $115,197 annually to $51,686 annually for the first five years, with a gradual increase because of the proposed increased interest charges. The reduced fixed obligations under the plan will be reduced to the extent of $825,305.12 by reason of the fact that it is contemplated a reduction of 10 per cent, will be made in the principal amount of the bond issue, the cancellation of $431,972.37 of notes payable (together with $224,000 of bonds held as security therefor), and $5,262.75 of open accounts. The plan of reorganization points out that the financial condition of the applicant has been strengthened since the date of the filing of the petition for reorganization. The underlying bonds of the Marshall Light, Heat and Power Company and of the Lexington Gas and Electric Company have been paid off, retired, and canceled. The mortgages securing the above bond issues are thereby released, and the property and assets of the company are subject to the lien of only its own bonds and obligations, as were listed above. It is also mentioned that negotiations are being carried on for the revision of a major operating contract, which is understood to be a contract for the purchase of electrical energy by the applicant. The applicant does not generate any of its current, but purchases same from a larger producing company, unaffiliated.

Attached to the application is a summary of the values of the physical property of the applicant. This summary is based upon a report made by Black and Veatch, engineers of Kansas City, who were ordered by the Federal court to make such report. Their estimate of the reproduction cost new of the physical property, including property not used and useful is $2,153,388. Including overheads, the reproduction cost new is submitted by that firm of engineers to be $2,477,405, and adding going concern value, the reproduction cost new is reported as being $2,700,405. The present value of reproduction cost new with the engineers' depreciation is $2,236,928.

Attached to the application is also a schedule showing the income as per the books of the applicant for the years 1934 and 1935, and applicant's estimate of the income for the year 1936. The applicant's balance sheet as of December 31, 1935, and a *pro forma* balance sheet at that date, reflecting the new securities to be outstanding under the plan, are as follows: [Balance sheets omitted].

Under the applicant's plan, the aggregating amount of bonds to be dealt with is $1,640,700. The first creditor, Middle West Corporation, holds $224,000 of the bonds which will be surrendered and canceled. For each $1,000 principal amount of first mortgage and refunding gold bonds, series A and B, now outstanding, accompanied by all interest coupons appertaining thereto, maturing on and after January 1, 1935, there is to be issued

in exchange $900 principal amount of first mortgage and refunding 3½ per cent—4 per cent—4½ per cent bonds of the reorganized company, dated April 1, 1936, and maturing April 1, 1956. The interest rate on the bonds will be 3½ per cent per annum for the first five years, 4 per cent per annum for the next succeeding five years, and 4½ per cent thereafter until maturity.

For each $34.047 (approximately) of the principal amount thereof, there will be issued one share of the common stock of the reorganized company. The first creditor is a holder of the notes payable and also holds $224,000 worth of the first mortgage and refunding 5 per cent gold bonds, due July 1, 1957, mentioned above. The first creditor is also holder of 2,000 shares of $6 cumulative preferred stock, 8,698 shares of the common stock of the applicant company, and an open account in the amount of $5,262.75 (as listed in proof of claim). In exchange for the issuance of the common stock of the reorganized company on the foregoing basis (aggregating 50 per cent of the common stock of the reorganized company), the first creditor will surrender for cancellation and retirement the bonds and stocks (preferred and common), and will extinguish and cancel the open account of $5,262.75.

Under the proposed plan, the holders of 7 per cent cumulative prior lien preferred stock will receive for each share 1½ shares of common stock of the reorganized company. Thirty-three shares of that stock now held in the treasury of the applicant will be extinguished and canceled, leaving 4,641 shares of this issue of stock to be dealt with.

For each share of $6 preferred stock, the holder will receive one share of common stock of the reorganized company. Two thousand shares of this issue of stock now held by the first creditor will be extinguished and canceled and 175 shares of this stock held in the treasury will be extinguished and canceled, leaving 5,726 shares to be dealt with.

The common stock of the applicant will be extinguished and canceled, and no stock of the reorganized company will be issued in exchange therefor.

All interest and dividends accrued on the present securities are to be extinguished and canceled.

Taxes, amounts due consumers, current accounts payable and other claims allowed for which provision has not been made in the plan or contemplated, will be assumed by the reorganized company.

The new bonds (referred to as the "initial series of bonds") will be issued under and subject to the provisions of an open indenture of mortgage and deed of trust, which will be made and executed by the reorganized company. The indenture will constitute a first lien upon the property of the reorganized company and all future acquired property excepting that the company, with the approval of the court or the reorganized company, upon authorization of its board of directors, shall have the right to sell or transfer free from the lien of the indenture of the existing company any or all of the property classified by and described in the report of the engineers as "not used nor useful property"; provided, however, that the proceeds of any such sale or transfer shall be deposited with the corporate trustee

then secured by such properties, to be withdrawn or applied by the company or the reorganized company, as the case may be, in the manner and upon the terms and conditions prescribed in the applicable indenture.

Further detailed description of the bonds is given in the plan of reorganization, the details of which we do not deem necessary to set forth herein. It is provided, however, that the indenture will permit the issuance of additional bonds other than the initial series of bonds without limit as to aggregate principal amount, on account of permanent improvements, extensions, or additions to its properties made or acquired subsequent to March 1, 1936, upon which the indenture shall have been constituted a first lien subject only to current assessments not in default and other minor liens which in the opinion of counsel do not impair the lien of the indenture, but only to the extent of 75 per cent of the actual cash cost or the fair value of the permanent improvements, extensions, or additions made or acquired.

It is provided in the plan that at the close of each calendar year there shall be deposited in a sinking fund a sum equal to 25 per cent of net earnings available for dividends. The funds so deposited in and accruing to the sinking fund shall be used by the reorganized company for the purchase of initial series of bonds in the open market or for tender or towards the redemption of said bonds. In addition to the maintenance of a sinking fund, accumulating the use of 25 per cent of the net earnings available for dividends, it is required that after setting aside said fund, a sinking fund may, in the discretion of the board of directors of the reorganized company, be provided for wherein all cash on hand as of January 1st and July 1st of each year, over and above an amount equal to one and one-half months operating expenses and one and one-half months accruals for taxes, interest, and construction budget, may be used for the purchase of bonds in the open market. Bonds so acquired out of either sinking fund shall be canceled and delivered to the corporate trustee under the indenture securing said bonds, and no additional bonds shall be issued on account of such cancellation.

The capital stock of the reorganized company shall have such par value or be without par value, all as may be approved by the court, and no shares of capital stock will be issued under or on the consummation of the plan except as provided for in said plan. Neither stock nor options therefor will be issued for services or as a bonus in connection with said plan.

The management of the reorganized company shall initially be seven in number, one of which is to be designated by the court, three by the Lafayette county and Ray county committees, and three by the first creditor.

All expenses incurred in preparing, filing, and carrying out the plan will be paid by the company or reorganized company, and shall include all costs and expenses incident to said reorganization, including costs pertaining to the organization of a new corporation (if formed) and the issuance and distribution of securities, as contemplated.

The income statement for the years 1934 and 1935, together with the estimate of the applicant for the year

1936, are as shown below: [Table omitted].

[1] Under §§ 5195, 5196, and 5201 of the Rev. Stats. Missouri, 1929, reorganizations of electrical corporations are made subject to the supervision and control of this Commission, and the transfer of franchises and issues of stocks and bonds, require that said issues be authorized by this Commission. Under the provisions of § 77B of Chap. VIII of the Act of Congress relating to bankruptcy, as amended in such laws, it is required that any plan of reorganization shall not be completed until the said plan has been submitted to and authorized by this Commission. It is shown by the application and the evidence submitted at the hearing that all parties of interest in the reorganization have approved the proposed plan except the bondholders' committee that represents the holders of a large portion of the outstanding bonds. Counsel for the bondholders' committee appeared at the hearing and contended that the bondholders should receive a greater interest in the reorganized company. They state they are willing to reduce the principal amount of the bonds by 10 per cent and reduce the interest rate to 4 per cent for five years and 5 per cent for fifteen years, and accept approximately 13 per cent of the equity stock of the company in lieu of the rights to be surrendered, or the bondholders will accept the full principal amount of their bonds in the reorganization plan, foregoing all accrued interest and reducing the interest rate on the new bonds to 3½ per cent for five years, 4½ per cent for five years, and 5 per cent for ten years. The applicant contends that the bondholders' committee represents only a minority of the outstanding bonds. However, the Commission cannot see how it can indicate to the various security holders how they should prorate their interests in the new corporation. That is the purpose of their appearing before the Federal court under the so-called § 77B of the Act of Congress relating to bankruptcy, as amended. The parties of interest in the corporation have brought to the Commission a plan which they claim has been agreed upon as fully as they are able to agree. The plan has been submitted to the court and must be authorized by this Commission before the court will act further, so that Commission will consider only the plan that has been laid before it and will not attempt to discuss the equities that may belong to the various parties in the bankruptcy proceeding.

To show that the plan is reasonable, the applicant has shown that its operating revenues for the year 1934 were $572,260.40; for the year 1935 $589,772.96; and that it estimates its revenues for the year 1936 will be $618,380. Its operating expenses for the same respective years, as shown above, are $427,296.39 (1934); $451,883.77 (1935); and $439,980 estimated for 1936. The increase in operating revenues for the year 1936, as shown, and the increase in operating expenses, as shown, are only estimates. The applicant indicates that it is negotiating for a new power purchase supply contract which, if consummated, and if the rates are reduced, of course, can be expected to reduce its operating expenses. In the testimony made at the hearing in this case it is shown that the population of

the various towns and communities served has been reducing for a number of years. It is also shown that one of the major industries, coal mining, has decreased because of severe competition. The coal mines in the community of the applicant are practically all, if not all, shaft mines, and are in strong competition with surface mines in which the coal is uncovered through the use of large power shovels. The mining of coal by the latter method is carried on on such a large scale that it offers severe competition to the shaft method of mining coal.

We also wonder, if the applicant proposes to reduce its operating expenses as materially as it indicates, whether or not its sales effort, both in the sale of electric current and appliances, will not act as a retardent to the gross revenues rather than to increase it to the extent that is indicated. We discuss this point because of the question that comes into our minds as to whether or not the amount of bonds the applicant proposes to issue is not greater than is justified under the proposed plan.

[2, 3] The engineers' report shows that their estimate of reproduction cost new of the physical property, not excluding property not used or useful is $2,153,388. The total amount of bonds to be issued under the proposed plan is $1,476,630, or 68.5 per cent of the bare physical useful property. In relation to the fair present value of reproduction cost less depreciation of the property, as submitted by the applicant, the bonds to be issued will be 66.01 per cent of that amount, $2,236,928 which figure does not include going concern value or other intangible elements. The bonds to be issued as proposed are a greater percentage of the physical property than should be provided for under a plan of reorganization brought about because of financial difficulties in which the company has found itself. This is particularly true in view of the income statement that has been submitted by the applicant, wherein it is estimated there will be an increase in its revenues and material reduction in its operating expenses. This viewpoint is also strengthened by the description of the changes that are taking place within the communities served by the applicant, namely, that the population of the communities has decreased, as well as the business activities. The only justification for the authorizing of the plan by this Commission, as it sees the situation, is found in the provision for the retirement of the initial series of bonds as we have mentioned above; namely, at the close of each calendar year there shall be deposited in a sinking fund a sum equal to 25 per cent of net earnings available for dividends, and that in the discretion of the board of directors all cash on hand as of January 1st and July 1st, over and above an amount equal to one and one-half months operating expenses and one and one-half months accruals for taxes, interest, and construction budget, may be used for the purchase of bonds in the open market, with no reissued bonds to take their place. It will be the intention of the Commission to see that the applicant company creates that sinking fund and reduces its outstanding bonds to a lower ratio than the physical value of the property.

With that reservation, the Commission will authorize the reorganization

of the applicant company as herein proposed.

Hargus, Chairman, and English and Nortoni, Commissioners, concur. Boyer, C, absent.

ORDER

The Commission having considered the petition of the Missouri Gas & Electric Service Company requesting authority to reorganize, according to the plan as filed in this cause, and having held a hearing upon said application and filed its report herein containing its findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof.

It is, therefore, after due consideration

Ordered: 1. That the Commission hereby orders the reorganization of the Missouri Gas & Electric Service Company in accordance with the plan or reorganization as submitted in this case.

Ordered: 2. That the Commission hereby authorizes the Missouri Gas & Electric Service Company, or its successors to execute and deliver a mortgage in a form to be hereafter approved by this Commission to secure the aggregate amount of bonds as provided for in said plan or reorganization, and hereby consents to and authorizes the mortgaging and conveying in trust thereunder any or all of its property, stocks, and franchises or other properties at any time owned or acquired in accordance therewith.

Ordered: 3. That the applicant or its successor may, upon application to this Commission issue its common capital stock as provided for in the reorganization plan filed in this case.

Ordered: 4. That the Commission reserve jurisdiction of the subject matter and the parties hereto for the purpose of entering such additional or supplemental order or orders herein as the facts may from time to time warrant, and that this application be continued for such further action.

Ordered: 5. That nothing herein contained shall be deemed to be a finding of value for the purpose of fixing rates or for any other purpose than for the purposes herein mentioned and described.

Ordered: 6. That the applicant herein shall furnish the Commission certified copies of any order or orders made in reference to a said plan of reorganization by the United States district court for the western division of the western district of Missouri.

Ordered: 7. That this order shall take effect on this date and that the secretary of the Commission shall forthwith serve on all parties interested herein a certified copy of this order.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Extensions of Rural Lines of Electric Utilities

[2-U-965.]

Service, § 51 — Commission jurisdiction — Extension of plant or facilities — General or special orders.

1. The Commission is empowered under § 196.49 of the statutes to issue general or special orders relative to the extension of plant or facilities by utilities, p. 28.

Monopoly and competition, § 13 — Commission powers — Competitive solicitation.

2. The Commission has no statutory power to prohibit competitive solicitation, by utilities, of members or prospective members of coöperative associations, p. 29.

Monopoly and competition, § 50 — Choice by potential customers.

3. Potential users of electricity should be entitled to exercise their privilege of choosing the responsible agency from which they desire to receive service, and the Commission stands ready and willing to give potential users such information as it possesses to assist them, p. 29.

Monopoly and competition, § 54 — Rural electric lines — Rules and regulations.

4. Speedy extensions of rural electric lines at minimum cost and at the cheapest rates consistent with adequate and continuous service will be facilitated by rules restricting utility companies from making extensions in territory open for development both by the electric companies and by coöperative associations, p. 30.

Service, § 320 — Rural electrification — Coöperative association.

Discussion of the creation of the office of Rural Electrification Coördination and the formation of coöperative associations for the purpose of rural electrification in Wisconsin, p. 27.

Public utilities, § 58 — Status of coöperative association.

Statement that under existing statutes as interpreted by the Wisconsin supreme court coöperative associations serving only members are not public utilities, p. 28.

Franchises, § 61 — Indeterminate permits — Towns.

Reference to decision of Wisconsin supreme court holding that neither the Commission nor towns themselves have been granted authority by the legislature to grant indeterminate or exclusive permits to utilities for operating in towns, p. 28.

Certificates of convenience and necessity, § 102 — Rural electric extensions — Rules and regulations.

Rules governing extensions of electric utilities in Wisconsin towns, covering matters relating to secondary extensions, lines for transmission or

distribution in any town or clearly defined portion of a town, conflicting rights of private utilities and coöperative organizations, and exemption of particular areas, p. 30.

[March 20, 1936.]

PROPOSAL *on motion of Commission to make effective an interlocutory order relating to extensions of rural lines of electric utilities; rules established.* *See post, p. 32.*

By the COMMISSION: The proceedings involved in this case were instituted on motion of the Commission and are the outgrowth of a series of recent events and activities in the field of rural electrification, which we propose to review herein.

Hearing relative to the proposed temporary order was held in Madison on February 10, 1936, at which the following appearances were entered: Wisconsin Gas and Electric Company, by D. G. Evans, Racine; Shaw, Muskat & Paulsen, Attorneys, Milwaukee, by Mr. Muskat; Wisconsin Michigan Power Company, by E. J. Steinberg, Milwaukee; Shaw, Muskat & Paulsen, Attorneys, Milwaukee, by Mr. Muskat; The Milwaukee Electric Railway and Light Company, by F. A. Coffin, Milwaukee; Shaw, Muskat & Paulsen, Attorneys, Milwaukee, by Mr. Muskat; Northern States Power Company, by G. V. Rork, Eau Claire; C. P. Wagner, Minneapolis, Minnesota; Wisconsin Power and Light Company, by B. E. Miller, Madison; Schubring, Ryan & Petersen, Madison, by Mr. Ryan; Commonwealth Telephone Company, by W. E. Limbocker, Madison; H. W. Pike, Madison; Wisconsin Rapids Water and Electric Plant, by C. P. Gross, Wisconsin Rapids; Interstate Light and Power Company, by R. R. Herrmann, Minneapolis, Minnesota; Byllesby Engineering and Management Company, by Winsor Martin, Chicago, Illinois; Wisconsin Public Service Corporation, by A. J. Goedjen, Green Bay; Interstate Power Company, Wisconsin Hydro-Electric Company, by C. E. Blake, Madison; Rural Electrification Administration, by B. W. Huiskamp, Madison; E. B. Wayts, Madison; J. Morgan Wilson, Madison; F. W. Duffie, University of Wisconsin, Madison.

At the outset the Commission calls to the attention of all parties concerned that it has shared in a large measure in the pioneering efforts of the various farm groups, and utilities in promoting rural electrification in this state. Long before the recently renewed interest in rural electrification, the Commission was, where possible, ordering into effect more liberal rates and extension policies, and in other cases informally urging the various utilities to liberalize their rural rates and extension rules. The receipt of many informal complaints over a period of years gave the Commission opportunity to correct many evils and abuses and suggest numerous improvements in practices pertaining to rural electric service.

With the advent of the depression the demands for rural electric service and the willingness of the utilities to extend such service reached a low ebb.

This lack of activity was reflected in the large decrease in the number of inquiries or complaints received concerning rural extensions. The Commission feels that these inquiries and complaints constitute a reasonably accurate barometer of activity in the field of rural electrification. This barometer began a slow rise in the latter part of 1934, shot upward with great rapidity during 1935, and is near an all-time "high" at the present time. The burden which these inquiries and activities have placed on the Commission is unprecedented.

Good crops in 1935, rising farm prices bringing with them renewed confidence, and the promotional activities of the Federal government have all contributed largely to the renewed interest in rural electrification. Whereas the Commission had adjusted itself to depression conditions by seeking relief for existing customers in the form of numerous emergency rural rate reductions, moratorium plans for guaranteed payments and other relief measures for the hard-hit farmers, it has since 1935 adjusted itself to the increased tempo of rural electrification by seeking ways and means of expediting extensions of service to new customers at rates they could afford to pay.

Early in 1935, after negotiation, the Commission placed on file for one company as an experimental plan in a restricted area a much more liberal extension rule than had hitherto been applied by any large utility in the state. Upon being advised six months later that the plan had produced successful results, the Commission requested and secured an extension of the plan to the remaining territory of the company as well as the extensive territory of an affiliated company.

Shortly after the creation of the Rural Electrification Administration by executive order of the President, the Commission sent representatives to Washington to obtain information regarding this program, offer coöperation, and in general coördinate information and activities along this line in Wisconsin. Following this conference, the Commission prepared and distributed bulletins setting forth its understanding of the REA program. In addition to advising numerous individuals both orally and by correspondence, the Commission sent representatives to address groups of farmers interested in the Federal program, and a meeting of the county agricultural agents of the state.

At about the same time the Commission reinstated on its active docket an investigation of rural extension rules looking toward greater standardization and liberalization. A more intensive study of rural construction standards and costs was begun and arrangements were made for a practical demonstration of utility rural line construction costs under competitive bidding by independent contractors. Further, the Commission actively participated in realigning certain territorial agreements between utilities so as to provide for more widespread extension of rural service.

In October, 1935, the office of Rural Electrification Coördination was created by the governor to aid various groups of interested farmers, particularly in the formation of coöperative associations to take advantage of the REA program. Since the crea-

tion of this office, numerous coöperative associations have been started with an extensive plan of rural electrification to be financed from REA funds.

The situation which obtained from 1931 to 1935 has now been completely reversed. Instead of the lethargy and inactivity which prevailed in that period, now both the farmers and agencies seeking to serve them are very active. The introduction of coöperative associations organized on a wide-scale basis has created new problems. While coöperative associations have been active in the field of rural electrification for a number of years, heretofore in this state they have operated on such a small scale as not to create any serious problems because of conflicts with other agencies. Since it soon appeared that conflicts would arise between coöperative associations and existing utilities, the Commission on January 22, 1936, called a general conference of all parties interested in the problem.

At this conference the Rural Electric Coördination Committee presented a resolution requesting the Commission to modify general order 2–U–20 (P.U.R.1932A, 411) so as to prohibit line extensions by utilities where interest in a coöperative association was evident. It was pointed out that about 75 per cent of the farmers of the state still had no electric service and that there should be plenty of room for both utility extensions and coöperative projects. It was stated that under existing statutes as interpreted by the Wisconsin supreme court in the Schumacher Case (1924) 185 Wis. 303, P.U.R.1925C, 228, 201 N. W. 241, coöperative associations serving only members were not public utilities. Attention was also called to the fact that the decision of the Wisconsin supreme court in the South Shore Utility Company Case, 207 Wis 95, P.U.R.1932B, 465, 240 N. W. 784, pointed out that neither the Commission nor the towns themselves had been granted authority by the legislature to grant indeterminate or exclusive permits to utilities for operating in towns.

In considering the resolution of the Rural Electrification Coördination Committee the Commission agrees that the number of farms in Wisconsin remaining unelectrified provides a fertile field for development by both coöperatives and utilities. The Commission is primarily interested in seeing that the maximum number of farmers get service at the lowest cost consistent with the requirements for adequate and continuous service. We feel that the agency which should serve, assuming minimum requirements of service standards, financial responsibility, etc., are met, is largely a matter of choice with the farmers themselves as long as wasteful competition or duplication of facilities will not result.

[1] The Commission is empowered under § 196.49 to issue general or special orders relative to the extension of plant or facilities by utilities. Pursuant to this authority the Commission has issued General Order 2–U–20, *supra,* several times modified, under which a utility must secure a certificate of authority from the Commission to extend service into a town in which it was not previously serving or into a town in which another utility is serving where no division of terri-

tory has been established. On the other hand, the order does not require a utility to secure a certificate of authority to extend in a town where it already serves exclusively or in *a clearly defined portion of a town* as established by a territorial agreement with other utilities serving in the same town.

The modification requested by the Coördination Committee would require that, with the exception of the extension of secondary lines and an aggregate of one mile of primary line in any town or clearly defined portion of a town, utilities should be restrained for a period of ten days before proceeding with any extension in a town or clearly defined portion of a town in which it was serving. Upon objection of any interested party a hearing would be required and a certificate of authority granted or denied in accordance with the showing of public convenience and necessity. If no objection were filed within the 10-day period, the extension could be made without further notice.

[2, 3] It is the opinion of the Commission that the proposed revision of 2–U–20 is not the efficacious remedy its sponsors believe it to be, since it fails to strike at the heart of the difficulty. We have observed that the most serious difficulty with which the coöperative associations have had to contend has been the solicitation of its members or prospective members by utilities serving in the same territory. The economic forces of competition have made such solicitation successful or at least partially successful only in those areas where the service and rates of the utility were at least on a par with the rates and service which the potential users had been led to believe they could secure from the coöperative association. We know of no statutory power by which the Commission could prohibit such competitive solicitation. We repeat that the potential users should be entitled to exercise their privilege of choosing the responsibile agency from which they desire to receive service. The Commission stands ready and willing, as it has in the past, to give potential users such information as it possesses to assist them.

In lieu of the adoption of the modification of 2–U–20 suggested by the Coördination Committee, the Commission suggested an informal method of procedure for handling cases where there appeared to be a conflict of interest. This plan contemplated holding informal conferences between the utility or utilities involved and the coöperative association which desired to serve in the same area, with a representative of the Commission's staff acting in the capacity of mediator, to determine whether a "gentleman's agreement" could be secured whereby the competitive solicitation and building would be restrained for a period sufficient to allow the coöperative association to secure information from the Rural Electrification Administration as to its feasibility and ultimate chances for approval. We wish to emphasize that this procedure contemplated the elimination of *competitive solicitation*. While the Commission realizes that this procedure may have prevented a minority of the customers from receiving service as soon as they might otherwise have received it, the Commission desired to see that the wishes of the majority as to the agen-

cy from whom they desired service be given primary consideration while at the same time not delaying unduly extensions of lines by existing agencies.

Under this procedure the Commission held conferences on five projects involving coöperative associations and in each case an agreement was reached to eliminate competitive solicitation and building for periods varying from two weeks to ninety days.

Many of the difficulties with which we are confronted at the present time involve areas in which such agreements have lapsed and in which the utilities involved are unwilling to renew the agreements because some of the potential users within the area, which the coöperative association proposes to serve, desire to secure service from the utilities.

[4] Throughout the activities described above, the Commission has held fast to the view that the farmers' interests in the long run will be best served by an orderly, economic development of electric lines. At the same time the Commission has reiterated that it desired speedy extensions of rural lines at minimum cost and at the cheapest rates consistent with adequate and continuous service. From the Commission's view of the present situation, it appears that these ends will be facilitated by issuance of the following order. Because of rapid changes, jurisdiction is retained to make such modifications as are reasonable and necessary.

It is therefore *ordered*, That the following rules be and are hereby substituted for the provisions contained in General Order 2–U–20, dated July 20, 1934, in so far as extensions of electric utilities in towns are concerned:

Rule 1. Transmission and Distribution Lines. Unless and until compliance has been made with Rule 4 hereof, no electric utility shall construct or place in operation any line for the transmission or distribution of electrical energy in any town or clearly defined portion of a town, except that in any town or clearly defined portion of a town in which said utility was operating as of the date of this order, the extension of secondary lines of approximately 220 volts or less or one continuous mile of primary line in a specific location to serve not less than two applicants who have contracted for service or a proportional distance for one applicant shall be exempt from this order.

Rule 2. Definitions. (a) The term "electric utility" as used in this order means and embraces every corporation, company, individual, association, their lessees, trustees, or receivers appointed by any court, and every town, village, city, or power district that may own, operate, manage, or control any plant or equipment within the state for the generation, transmission, distribution, delivery, or furnishing of electric energy, directly or indirectly, to or for the public.

(b) The terms "line" or "lines" shall mean any wire circuit or circuits over which electrical energy may be transmitted or distributed. It shall include poles, towers, or other structures upon which such wire circuit or circuits are carried, any underground or submarine construction for carrying such circuit or circuits, and also land, easements, or other rights of occupancy or use requisite for the con-

struction and operation of such wire circuit or circuits.

(c) The term "clearly defined portion of a town" shall mean a part of a town that is definitely described in an agreement heretofore entered into between electric utilities, or in any decision or order of a public authority having jurisdiction in the premises that confers or limits the operative rights of an electric utility operating in the town.

Rule 3. Conditions in Orders. The Commission in the issuance of certificates may find it in the public interest that such certificates be issued upon conditions. Any certificates thus issued subject to conditions must be accepted with the conditions attached.

Note.—If any utility deems the conditions imposed in the certificate to be unreasonable, illegal, or improper, its remedy is to request a hearing or rehearing at which such objections may be pointed out, and if the objectionable features are not stricken out by the Commission, then an appeal may be taken.

Rule 4. Procedure. (a) Any electric utility desiring to extend its lines into a town or a "clearly defined portion of a town" in which it was not serving as of the date of this order, shall file with the secretary of the Commission in triplicate an application for a certificate of authority and shall set out such information as will convey a full understanding of the circumstances surrounding and the reasons justifying the proposed construction. The Commission reserves the right to call for such additional information as it may deem necessary.

(b) Any electric utility desiring to make an extension not specifically exempted in Rule 1, of this order, into a town or "clearly defined portion of a town" in which it was already serving exclusively as of the date of this order, shall file with the secretary of the Commission a notice and brief description of the proposed extension. Concurrently with the filing of the notice to the Commission, the utility shall file the same notice with the town clerk of the towns in which such extension is proposed. The Commission shall immediately notify such parties as appear to have an interest in said extension including the Rural Electrification Coördination Director. If no objection to said extension is filed with the Commission within ten days of receipt of the notice by the Commission and if the proposed extension appears to meet the requirements of the Commission, then the extension may be made without further notice. If objection is filed with the Commission or if the Commission deems necessary an investigation on its own motion, a hearing shall be ordered and a certificate of authority granted or denied in accordance with the showing of public convenience and necessity.

Rule 5. Provisions for Exemption. In order to minimize possible delays in extending rural lines by existing utilities in areas already so developed as to make another agency of supply uneconomical, or in areas where no conflicts of interest exist or where projects have been submitted to the state coördinator, a procedure for securing exemption from the order herein is set forth below. It should be understood that where the order in

this docket is not applicable the order in 2–U–20, as last amended July 20, 1934, is still effective.

Upon application to the Commission, exemptions of particular areas from the order herein may be granted to utilities meeting one or more of the following requirements; after findings and order that such exemption is consistent with public convenience and necessity.

(a) Subject to review and acceptance by the Commission, the utility may file a memorandum of agreement with an organized group, committee, or association of potential farm users of electricity, desiring retail electric service through some other distributing agency; this agreement shall designate certain defined areas for solicitation of customers and building rural lines by the utility, and group, or association, which agreement satisfies the Commission that an economical and orderly development of rural electric service in the public interest will be served thereby. Such memorandum of agreement shall be signed by the responsible representatives of the utility and farm group, committee, or association involved.

(b) The utility may file maps or other satisfactory evidence showing that in a town, or clearly defined portion of a town, already occupied by the utility, it is already serving over 50 per cent of the total rural service locations and no compact, unserved area of said town, which is accessible to another distributing agency, remains.

(c) Subject to review and acceptance by the Commission, the utility may file a revised rural extension rule (a) that is not discriminatory against present customers served, (b) that provides for the utility financing at its own expense extensions which would give adequate service, and (c) that the new extension rule requires assured revenue of not more than $144 per mile per year including 1,800 kilowatt hours per year.

Rule 6. Effective Date. This order shall for a temporary period ending September 1, 1936, apply to all extensions made or proposed to be made after the date hereof.

WISCONSIN PUBLIC SERVICE COMMISSION

Re Wisconsin Michigan Power Company

[CA–105.]

Monopoly and competition, § 101 — Rural electrification — Notice of proposed extension — Exemption from requirements.

1. Under a rule (general order No. 2–U–965, rule 5-c) providing that an electric utility, subject to review and acceptance by the Commission, may file a revised nondiscriminatory rural extension rule that provides for utility financing of rural extensions at a stipulated annual minimum charge not exceeding a specified amount, and thereby be exempted as to particular

areas from the operation of an order restricting extensions in new territory until after notice to public authorities and to interested parties and providing for hearings on contested extension, a wholesale objection to exemption of a large number of towns, for the purpose of requiring the utility to make separate application for exemption in connection with each extension, is disapproved since the objector should accompany the objection with specific and full details concerning the reasons therefor, p. 34.

Monopoly and competition, § 101 — Rural electrification — Notice of proposed extension — Exemption from requirements — Projects of coöperative organization.

2. Under a rule (general order No. 2–U–965, rule 5-c) providing that an electric utility, subject to review and acceptance by the Commission, may file a revised nondiscriminatory rural extension rule that provides for utility financing of rural extensions at a stipulated annual minimum charge not exceeding a specified amount, and thereby be exempted as to particular areas from the operation of an order restricting extensions in new territory until after notice to public authorities and to interested parties and providing for hearings on contested extension, exemption was withheld as to certain sections where coöperative organizations were in various stages of development, p. 34.

Monopoly and competition, § 101 — Rural electrification — Notice of proposed extension — Exemption from requirements — Projects of coöperative organization.

3. Under a rule (general order No. 2–U–965, rule 5-c) providing that an electric utility, subject to review and acceptance by the Commission, may file a revised nondiscriminatory rural extension rule that provides for utility financing of rural extensions at a stipulated annual minimum charge not exceeding a specified amount, and thereby be exempted as to particular areas from the operation of an order restricting extensions in new territory until after notice to public authorities and to interested parties and providing for hearings on contested extension, the granting of exemption in those towns where coöperative organizations are not already organized or where no relatively large compact unserved area exists appears reasonable, p. 34.

[June 4, 1936.]

APPLICATION *by electric utility for exemption from provisions of general order 2–U–965 relating to notice of rural extensions; exemption granted in part. See ante, p. 25.*

By the COMMISSION: The application in this case, dated March 31, 1936, requests exemption from the provisions of the Commission's general order 2–U–965 (14 P.U.R. (N.S.) 25, *ante*) under rule 5-c contained therein, for all territory in its so-called "Southern Division." This division, embracing all or part of 53 towns in the counties of Brown, Calumet, Oconto, Outagamie, Shawano, Waupaca, Waushara, and Winnebago, is quite well defined by reason of territorial agreements reached in 1926, 1929, and 1935 with Wisconsin Power and Light Company, Wisconsin Public Service Corporation, and the city of Kaukauna, respectively.

Hearing relative to the above application was held on April 11, 1936,

in the state capitol, Madison. At the hearing Wisconsin Michigan Power Company was represented by E. J. Steinberg, R. E. Moody, and M. R. Paulsen, Attorney of Shaw, Muskat & Paulsen. The Rural Electrification Coördination office was represented by O. S. Loomis, B. W. Huiskamp, and E. B. Wayts.

According to an exhibit submitted by the company under date of April 13, 1936, the following towns comprise its southern division: [List of towns omitted].

[1] In a communication to the Commission dated April 17, 1936, the Rural Electrification Coördination office objected to exemption from 2–U–965 for all of the 53 towns listed above with the exception of Ellington and Maple Creek in Outagamie county and Menasha in Winnebago county. The reason given for this wholesale objection to exemption from 2–U–965 is that by requiring the company to make separate applications for each extension when it is ready to commence construction, the REC office "will be in a position to know if they are interfering with any of the (coöperative) projects that are in progress."

This purpose could be just as effectively reached from the standpoint of the coöperative organizations while at the same time refraining from obstructing prompt service by the company in areas where no coöperatives have been formed or are in the process of formation, if the objection were more specific and accompanied by maps of the proposed coöperatives. It is unquestionably a fact that in many of the towns to which objection has been raised in this case, there are large portions which could not be efficiently served by a coöperative because of areas of low density, geographic features, or existing lines of the company.

The Commission believes that in order to facilitate action in the future, the objector in any case of this nature should accompany the objection with specific and full details concerning the reasons therefor. The Commission recognizes that a coöperative organization cannot furnish specific details of the rates and rules under which it proposes to operate until the project has reached its final stages. It can, however, supply a road map of the territory in which it proposes to operate, showing proposed lines and possible customers. It should also be able to furnish a statement of the status of the various projects at the time objection is made, together with an estimate of the time necessary for their completion.

[2, 3] No such definite information having been furnished in this case, it has been necessary for the Commission to attempt a determination, from maps supplied by the applicant, of compact unserved areas which might conceivably be chosen for the formation of coöperative enterprises. Since further study has shown that coöperative organizations are in various stages of development in most of these areas the Commission believes it is in the public interest to withhold exemption from 2–U–965 in certain sections of the company's southern division.

Rule 5 of the Commission's General Order 2–U–965 states that the purpose of providing for exemptions is to minimize delays in extending

service to rural customers. The application in this case is based upon the urgent demand for service from some 450 prospective customers and the readiness of the company to extend service to the remainder as fast as the service is desired and construction will permit. The rural rates and extension rules applicable in the territory are within the requirements set forth in 2–U–965. Under such circumstances, the granting of the exemption, in those towns where coöperative organizations are not already organized or where no relatively large, compact unserved area exists, appears reasonable. This would not deprive any group of potential users of the opportunity to organize a coöperative if they so desire, bearing in mind that so far as "franchise rights" are concerned, the Wisconsin supreme court has treated towns as free-for-all territory. South Shore Utility Co. v. Railroad Commission, 207 Wis. 95, P.U.R.1932B, 465, 240 N. W. 784. The exemption would minimize delays in making service available to farmers desiring it at rates which, so far as we have thus far been advised, seem at least as favorable to the customer as other existing or proposed agencies are offering.

On the other hand, no undue burden will be placed on the company by denying exemption and thereby requiring 10-day notices in those towns or portions of towns where coöperatives are already organized or where only a small proportion of the farmers have signed contracts for service with the company.

The company's present extension rules contemplate development of unserved rural areas on a project basis. This enables farmers without near neighbors to get electric service on equal terms with farmers living closer together where the costs of line extensions are less per customer. This type of extension rule, properly administered, tends to avoid what has been called "skimming the cream." As the company develops projects in areas not exempted from 2–U–965, it can readily seek release of the territory from the requirements of 2–U–965. However, the Commission cautions the utility that if it neglects exempted areas where service demands still exist, in order to concentrate on unexempted areas, steps will be taken to remedy this situation.

The company's application for blanket exemption includes two towns, Maine in Outagamie county and Union in Waupaca county, in which it was not rendering service as of the date of application. Under the provisions of 2–U–20 (P.U.R.1932A, 411) and 2–U–965, *supra*, a separate application for a certificate of authority is required for these towns. They cannot be disposed of in this case and will be omitted from this order.

In view of the foregoing facts and conclusions the Commission finds and determines that, with the exceptions noted in the following order, the application of Wisconsin Michigan Power Company for exemption from the provisions of General Order 2–U–965 is consistent with public convenience and necessity and should be granted. The granting of this exemption does not relieve the company of its duties under General Order 2–U–20.

MICHIGAN PUBLIC UTILITIES COMMISSION

Re Consumers Power Company

[D-2916.]

Rates, § 323 — Demand or active load — Electric — Measurement of demand — Lighting use.

1. The use of electricity for lighting, being only a small part of the total use, cannot be considered as a fair basis for estimating the probable demands of the domestic customer, since many customers now use electricity for refrigeration, radios, sweepers, toasters, stoves, washing machines, and other domestic purposes, p. 39.

Rates, § 323 — Connected load or active load method — Domestic electric.

2. Computation of domestic electric rates on the basis of connected load or active load is difficult for the public to understand and is not equitable, p. 39.

Rates, § 276 — Block type — Electric.

3. A block type of rate for domestic and commercial electric customers was established, p. 39.

Rates, § 259 — Promotional type — Electric.

4. A system of electric rates for immediate use, as well as an objective rate, which is immediately available to each customer for use whenever the customer becomes entitled to further reductions by increased use of electricity, should be established so that a customer may benefit from increased use, p. 39.

Discrimination, § 35 — Localities — License fees, taxes, and street rentals.

5. The addition to an electric company's general operating expenses of charges imposed by certain municipalities in the form of license fees, special taxes, or street rentals would impose an unjust burden on the customer residing outside of such municipality, p. 41.

Valuation, § 332 — Going value — Right to allowance.

6. Some amount for going value must be added to the fixed capital of an electric utility in determining the rate base, p. 41.

Discrimination, § 14 — Rates — Elimination in new schedules.

7. A new form of rate schedule, if correctly designed, should bring a greater saving to some customers than to others when under existing schedules discrimination exists, although it is necessary that the new rates shall, after making allowance for desirable changes, have as far as possible the same relative effect on each individual customer's bill, p. 42.

Rates, § 296 — Kind — Service charge or monthly minimum.

8. A minimum monthly bill for electric customers was considered preferable to a service charge independent of the amount of energy used, p. 42.

Rates, § 259 — Promotional — Objective type — Electricity.

9. An objective rate of the block or quantity type was put into effect so

that domestic customers of an electric utility might take advantage of reductions by increased use of electric energy, and which would be immediately available to those who increased their use, p. 43.

Rates, § 147 — Cost of service — Public burden.

10. The standard rates of an electric utility should be increased within the limits of municipalities which levy special taxes, license fees, or street rentals against the company so as to offset such special charges and thereby prevent the customers in other localities from being compelled to share any portion of such local increases, p. 43.

(SMITH, Chairman, concurs.)

[March 5, 1936.]

INVESTIGATION *of electric rates; new rate schedules established.*

By the COMMISSION:

Rates for Electric Service

Our understanding of the proper function of an opinion by the Commission in a rate case is that it should consist of a concise statement or finding of facts, reasons which impel the Commission to its conclusions, and the conclusions of the Commission as to what must be done by the utility in regard to rates. For reasons which are hereinafter briefly stated, it is not possible at this time to make final findings of fact upon which to base definite conclusions as to proper rates for electric service, by this utility. However, the Commission feels that the testimony and exhibits now before the Commission in this matter do indicate that a radical change should be made by this company in the method of computing and establishing rates to be charged for electric energy and that a substantial reduction in rates should be made at once. The public should receive the benefit of such reductions without the delay which would follow if they were deferred until the completion of the present extensive survey, appraisals, analysis, and segregation of all the properties of the company can be accomplished and a more definite rate base established.

The Consumers Power Company is a Michigan public utility which furnishes electric light and power, natural and manufactured gas, steam heating, and water, in approximately four fifths of the territory of the Lower Peninsula. The company operates what may, for all practical purposes, be considered as twenty-one separate utilities. Besides furnishing electric light and power throughout most of the Lower Peninsula, including approximately 700 cities and villages, the company operates eleven separate gas utilities, five steam heating plants, and four water utilities.

The company has never segregated and separately charged the amount of property used and useful in serving the public, as between these utilities. The reserve for retirement, which has been built up by the company, has never been separated and allocated to its separate activities in furnishing electric energy, gas, steam heat, and

water, although the retirals from service and the degree of obsolescence must necessarily be different. Much of its property must be considered as used and useful in common for all of its various activities. Reasonably definite knowledge of the amount of property used and useful in serving the public in each utility must necessarily be the basis to be used in fixing a proper charge to reserve for depreciation or retirement and a proper return upon the property used and useful in each separate utility.

This Commission is now engaged in an attempt to separate and analyze the entire property of this company for the purpose of determining what property is used and useful in common in all of its services and to determine what property should be allocated separately to the service of electric light and power, the service of natural gas, of manufactured gas, of steam heating, and of water. Until this work is completed and carefully reviewed, any attempt to fix a present fair value for the property of this utility, used and useful in each of its separate activities, as a basis for rate-making purposes must necessarily be preliminary and to a certain extent conjectural. This work has never before been undertaken by the Michigan Public Utilities Commission as applied to the Consumers Power Company and consequently the Commission has not at the present time the definite information which is necessary to enable the Commission to make final findings of fact upon which must be based any final conclusions as to a proper rate. This applies equally to the furnishing of electric light and power as it does to the furnishing of natural gas, manufactured gas, and other services to the public.

Other difficulties are likewise encountered at the present time in any attempt to fix a final rate to be charged for electric service. The company is enjoying a rapid increase in the consumption of electric energy. As the amount of the use of electricity increases the rates which the company may charge may be lowered. The company is engaged in an expensive program for extending its rural electric lines, to sell more electricity to rural customers. The company is likewise engaged in a new and experimental field of constructing pipe lines and of furnishing natural gas instead of manufactured gas to a considerable number of communities. It is quite probable that the financial returns to the company for the next year or two on these operations will not be sufficient to separately provide an adequate amount for depreciation or retirement and a reasonable return to the company on the investment. If the recently enacted Federal Social Security Act is ultimately upheld by the courts, a substantial sum will be added to the expenses of the company. A substantial increase in income taxes and other Federal taxes to be paid by the company is likewise in prospect, the amount of which cannot be definitely estimated at this time.

These conditions, as well as others which must be finally taken into consideration, indicate that at the present time it is not possible to establish anything more than temporary rates for the furnishing of electric light and power by this utility. However, from such investigation as the Commission has already completed the Commission

is satisfied that a substantial reduction in electric light and power rates should be put into effect at this time to be considered as temporary and subject to change when more definite conclusions can be reached.

The net gain in sales of electric energy by the company for the year 1935 shows an increase of approximately $900,000 over the sales for 1934. These figures alone cannot be taken as definite proof as to how much the company's rates should be reduced. In giving consideration to these figures, we must also analyze and determine whether the net returns for each of these years were sufficient to provide a proper reserve for depreciation and a proper return upon the value of property used and useful in the electric utility, and we must also know the amount of additions and retirals to its property used and useful as an electric utility during these same years. The rates which are proposed in this opinion are predicated on an estimated net increase in the revenues of the company for the current year. In that connection the proposed rates for electric service are largely promotional. While it may be claimed this will not provide, for a year or two an adequate amount for depreciation and return upon property used and useful in the electric utility, it may reasonably be calculated to increase the use of electricity and thereby promote increased revenues for the company in succeeding years without a proportionate increase in expense. The change over from manufactured to natural gas, which is to be completed by the company in various communities during the present year, may likewise result in decreased revenues, which may be claimed not to be sufficient for the current year, but should doubtless prove to be sufficiently promotional as to increase the consumption of gas and thereby increase revenues for succeeding years. Inasmuch as the company has not separated its property used and useful as between its electric service and the furnishing of gas, it is not possible at this time to finally determine to what extent the electric rates provide a proper return as compared to rates charged for gas.

[1–4] The present problem is the fixing of rates for furnishing electric light and power. This company has for many years been using for domestic service what is known as the connected load or active load method as a basis of charges for electric service. The company has been basing its different rates for domestic service upon the demand or active load requirement of each customer, based upon a count of the number of watts which the customer has installed for lighting purposes. This is done by counting the wattage of the electric light bulbs in the house. From this is determined the "demand" or "active load" of the customer and his rate is fixed accordingly for the amount of current which his use apparently requires. This was probably a satisfactory method many years ago when the amount of electric current which the domestic customers might possibly use might reasonably be estimated upon the basis of the number and size of the bulbs used in the house for lighting purposes.

However, in recent years the use of electricity for lighting is only a small part of the total use, and cannot be considered as a fair basis for estimat-

ing the probable demands of the domestic customer at the present time. So many customers now use electricity for refrigeration, radios, sweepers, toasters, stoves, washing machines, and other domestic purposes that the amount of current used for lighting is no longer a fair basis for estimating the customers demand or probable maximum requirement. While the company formerly was required to maintain adequate electric service based primarily on the plant capacity to supply a peak load demand for lighting, the company must now be ready to serve its customers for any and all of these additional uses, as well as power loads which make the peak load for lighting of little moment. The result of this old-fashioned method of computing the demand was that the company put into effect and still uses for domestic service various rates depending upon the connected load of demand of a customer, varying from so-called billing steps 5 and 6 through consecutive even numbers to and including step 44, putting in effect a different rate for each of these billing steps. Such method of computing the domestic rate is difficult for the public to understand and certainly is not equitable under present conditions. It has resulted in much dissatisfaction, considerable difference in the charges made to the domestic customers for the same amount of service, and the Commission feels that this method should be radically changed. For that reason the Commission is prepared to establish a block type of rate putting into effect an immediate rate which will level off and readjust rates for electric service. The Commission also feels that a customer should be allowed to receive the benefit of any increased use of electricity by the customer, because increased use should mean a lower rate. The engineering department of this Commission has worked out a system of rates for immediate use as well as an objective rate which is immediately available to each customer for use whenever the customer becomes entitled to further reductions by increased use of electricity.

General hearings were held by the Commission during the months of March, April, May, July, August, and September of 1935 on the question of rates to be charged by this company for electric light and power service and for the serving of both natural and manufactured gas. During the course of these hearings the Commission reached the conclusion that it would be impossible to finally and satisfactorily fix definite rates for electric service and gas service to be charged by this company until the segregation and analysis of the various utilities of the company had been completed. The Commission has therefore ordered segregations and appraisals to be made and is engaged in an appraisal of the Kalamazoo gas utility, to be followed by other appraisals.

In the meantime the Commission is convinced from the testimony and exhibits already adduced at the hearings, and from the analysis made by the engineering and accounting departments of the Commission that in the application of the demand type of rate for residential electric service many abuses have arisen and that as now applied the rate is actually discriminatory in many cases; that there is widespread dissatisfaction among the

residential customers with the "demand" or "active load" type of rate now in use for domestic service and a desire that a more simple type of rate be instituted; also that the present total net earnings of the company are such that an immediate material reduction in rates is warranted.

[5] We also find that certain municipalities in which the company operates a utility propose to collect substantial sums of money from the company by enacting ordinances to impose upon the company certain charges in the form of license fees, special taxes, or street rentals and that the addition of these charges to the company's general operating expense would result in an unjust burden on the customer residing outside of such municipalities.

[6] As near as can be computed at the present time, it appears that the fixed capital of the electric utility, excluding working capital, supplies and material, and going value, as of December 31, 1934, may be considered to be approximately $150,000,000. Testimony introduced indicates that additions of fixed capital during the year 1935 to property used and useful in the electric utility were approximately $3,500,000. From the testimony offered it also appears that the amount of money necessary for the company to be used as working capital, including supplies and materials (which are never stationary) is $5,000,000. These figures total $158,500,000, to which some amount for "going value" must be added. The company should be entitled to some reasonable amount for going value of the electric utility. This is always a matter of conjecture and it is impossible at this time to satisfactorily fix a separate going value as between the electric utility and the gas utilities. Using $500,000 as our estimate, this would establish the total value of $159,000,000, for property, used and useful in the electric utility, including working capital, going value, supplies and material, which seems to be justified by the proofs thus far adduced.

The company's 1934 annual report fixes its total retirement reserve at the end of that year at approximately $14,500,000. However, this reserve applies generally to all of the property of the company. We have no satisfactory basis at the present time upon which we can estimate how much of this reserve should properly have been allocated to the electric utility. The actual amount of retirements of property on account of the electrical utility, over a period of twenty years, is approximately $17,000,000. It seems that the company over this period has set aside for retirement annually an amount equal to between 1½ per cent and 2 per cent of the fixed capital assets of the electric utility. Past experience would seem to indicate that this has not resulted in an accumulation of an excessive reserve for this purpose.

The amount available for depreciation and return from the electric utility for the year 1934 was approximately $12,500,000. Adding to this the net gain in revenue for the company for the year 1935 over 1934 of approximately $900,000, indicates that for the year 1935 there was available for depreciation and return approximately $13,400,000.

Without considering a number of other elements which might somewhat

change the ultimate results, it is apparent that a reduction of approximately $1,500,000 can be made in the annual revenues of the electric utility and still leave available a reasonably fair return upon the value of the property used and useful in said utility, and for depreciation. By putting into effect an immediate reduction in rates, combined with an objective rate under which customers may receive the benefit of lower rates by an increased use of electric current, it is entirely possible that the gross revenues may be increased the ensuing year to such an extent that the contemplated reduction in the rates charged for electric light and power may result in a corresponding saving to the public of about $2,000,000 or 15 per cent of the cost of electrical energy under the present rates. We are of the opinion that this reduction should be put into effect at once.

[7] A change in rate accompanied by a change in the type of rate is much more difficult to make than is a change in rate without a change in the type due to the fact that it is harder to calculate the estimated revenue under a new form of rate and it is also necessary that the new rate shall, after making allowance for the desirable changes, have as far as possible the same relative effect on each individual customer's bill. Some customers are now buying electricity at a lower average rate than the rate schedule itself warrants because of an incorrect determination of their active load. Others are profiting unduly because the present rate schedule was designed many years ago when the use of electric appliances was quite restricted and has been continued without giving weight to the electric load requirements of appliances when calculatng active load. As a result of the discrimination arising from this situation, the new rates, if correctly designed, should bring a greater saving to some customers than to others and in fact it is probable that a certain restricted group of customers who are now receiving current at the expense of others would actually have an increased rate.

Any form of simple block rate with blocks of the same size for all domestic customers will result in too great increases for some customers and too great decreases for others when changing from the active load type to the block type of rate. Therefore a block type of rate has been designed for use during a transitional period in which the blocks of kilowatt hours will bear a certain relation to the previous active load as it now is recorded with the company, that is the customers who now have a small active load will have smaller blocks under the new rate and will reach the lowest priced electric energy more quickly than those customers having recorded larger active loads.

[8] In determining the minimum monthly charge for domestic customers served on such a rate, two possibilities have been considered. One was the use of a service charge as a minimum which would be based upon the monthly per customer costs required by the company to serve its customers, independent of the amount of energy used by the customer. This type of minimum has met with considerable favor in the state of Wisconsin, where the Wisconsin Public Service Commission, after considera-

ble study, has approved and recommended a minimum monthly bill of 60 cents per customer, which minimum does not include the furnishing of any electrical energy to the customer. The other method considered was to establish a minimum monthly charge which would not only include the service charge but would also include some electrical energy. This second method of handling was considered preferable.

[9, 10] The savings to the customers will be very material under this rate but even greater savings will be warranted and possible if the use of electrical energy per customer can be materially increased. In order to take full advantage of this situation and to provide a means by which the final change may be made to a pure block type of rate, an additional domestic rate has been designed of the so-called "objective" type under which each individual customer can benefit to the extent that he individually desires by increasing his consumption of electricity. In brief, the objective rate is lower than the rate for the transition period in all cases except for the minimum monthly bill and a customer secures service under the objective rate automatically by exceeding his present consumption of electrical energy. In fact, such customers receive a certain amount of free energy without additional payment as they advance from the transition rate to the objective rate.

While the objective type of rate is comparatively new, it has now been accepted in twenty-two states and we feel that the principal reason for its ready acceptance is well expressed by the following statement made by the Illinois Commerce Commission in an order approving an objective type electric rate:

"Utilities have repeatedly contended that rates should and would come down only when and after the use of electricity increased, whereas the customers and the Commission have contended that the increased use should and will come after rates are reduced. It is apparent that the objective rate serves, in part at least, to answer both contentions. The company makes the initial cut in rates and provides an additional incentive for increased use by a plan under which the customer may avail himself of additional kilowatt hours of electricity at no additional cost and make still further use of the service at much lower cost per kilowatt hour, thus lowering the average rate charged per kilowatt hour more rapidly than ordinarily is done."

The engineering department of the Commission has worked out a system of electric rate reductions which will be of material benefit to customers and which will put into effect a transition rate and an objective rate of the block or quantity type to be the only type of rate ultimately available for domestic customers. This will reflect savings to customers in direct proportion to the reduction in revenues hereinbefore indicated. In the development of these rates it has appeared desirable to select a rate, which not only gives the lower revenue herein indicated but which also will eliminate the objections to the present demand or active load type of domestic rate.

We reach the following conclusions:

1. That the present form of active load rate should be eliminated for do-

mestic and commercial customers, and a more simple block type of rate put into effect as rapidly as possible.

2. That a transition rate should be put into effect immediately which will result in an immediate saving to the domestic customers of the electric utility.

3. That an objective rate of the block or quantity type should be put into effect so that domestic customers may take advantage of reductions by increased use of electric energy and which will be immediately available to those who increase their use.

4. That a block type of rate be made available for commercial customers in addition to the present demand type of rate.

5. That the total rate reductions which we find should be put into effect at once will amount to approximately $1,500,000 and may amount to $2,000,000, and should be made effective at the earliest possible date, so that there be no further delay in making these savings available to the customers.

6. That in municipalities which levy special taxes, license fees, or street rentals against the company the standard of rates should be increased within the limits of such municipalities so as to offset such special charges and thereby prevent the customers in other localities from being compelled to share any portion of such local increases.

7. That the segregation, investigation, audit, and appraisals of the company's records and property should be continued for the purpose of providing the Commission with definite information upon which an order may be made at a later date, establishing rates upon a more definite basis.

8. That the Commission should retain jurisdiction of the entire matter for the purpose of making such other or further orders as the circumstances may seem to require.

To the extent indicated herein we concur in the conclusions reached by other members of the Commission and we concur in the result.

SMITH, Chairman, concurring: I agree with nearly all of the statements in the foregoing opinion; concur in the result; and reassert the proposition that until the work now being done shall have been completed and "fair value" found for this utility is only tentative and temporary.

EDITOR'S NOTE. A separate opinion by Chairman Smith, omitted here for lack of space, discusses the different utilities operated by the Consumers Power Company, jointly used property, the history of the company, the development of regulation in Michigan, the company's capitalization and earnings, various measures of value, depreciation, ownership of securities of the company, property used or useful, and other items considered in fixing the rate base, going value, rate of return, and forms of rates.

Re Southwestern Gas & Electric Company

[Docket No. 28.]

Rates, § 276 — Kinds — Block type — Minimum bill.

1. Electric rate schedules of the block type, with a minimum bill, were established, p. 46.

Rates, § 285 — Kinds — Room rate.

2. Room rate schedules of an electric utility were eliminated, p. 46.

Rates, § 259 — Objective rate plan.

3. An electric utility company was authorized to establish an objective rate plan under which the company's customers would benefit from lower costs as consumption should increase, p. 46.

Discrimination, § 27 — Objective rate plan.

4. Discriminatory features of an objective rate program of an electric utility did not bar the adoption of the plan where the program was of a temporary nature, its life depending upon the speed with which the company's customers should take advantage of its benefits and any discrimination which might exist being limited to the length of time during which the program should be effective, p. 46.

[January 30, 1936.]

INVESTIGATION *of electric rates; new rate schedules established.*

By the DEPARTMENT: On August 19, 1935, this Department entered its intermediate order in this case, requiring the specified companies to submit, not later than September 15, 1935, their plan for making immediate reductions in rates for residence and commercial electric service and the institution of an "objective" plan embodying further reductions for additional use. The Southwestern Gas & Electric Company was one of the companies included as being subject to the above referred to order.

Southwestern Gas & Electric Company serves 60 communities in the western part of the state, partly through its interconnected power system extending over portions of Louisiana, Texas, and Arkansas, partly through local generating facilities, partly through a system of purchased power from other utility companies.

Present residential schedules: The company's present schedules are of the simple block type, turning on 25 kilowatt-hour blocks, with two exceptions. One of the exceptions is the town of Dierks, where there is an optional 10-cent flat rate, and the other exception is Fouke, where the Wright demand room rate is in use.

Present commercial lighting schedules: The present commercial sched-

ules are, with but two exceptions, of the block type. The exceptions are Dierks, with a 10-cent flat optional meter rate, and Fouke, with the Wright demand type of rate.

The Department's original order required immediate reductions, as well as inauguration of objective schedules designed to lower the cost of additional use of service. Because of the relatively low rate levels existing in this company's schedules, coupled with the relatively low annual use by the company's customers, the Department did not insist on immediate reductions to as great an extent as it might otherwise have done.

[1, 2] The new immediate schedules are set out in appendices to this order. They are of the block type, with a minimum bill. The room rate schedules are eliminated.

[3, 4] The company has submitted an objective rate plan which has been studied by the Department. The proposal appears reasonably in accord with the principles and intent of our previous orders and to be for the mutual benefit of the public and the company.

The Department has previously expressed its attitude toward any discriminatory features of an objective rate program. Since the objective rate program under consideration is of a temporary nature, its life depending on the speed with which the company's customers take advantage of its benefits, any discrimination which may exist will be limited to the length of time during which the program is effective. The objective program is transitory, being simply a means of transferring from one rate level to another and lower level. Any discriminatory features of the objective rate program will, in this case, be minimized by the adoption of reasonable maximum and minimum base consumption. After giving consideration to the facts before us, we have fixed and specified appropriate minima and maxima in the schedules appended hereto.

This program does not contemplate any immediate or objective changes in the schedules available to rural customers. Rural schedules of this company have recently been reduced and modified, and it is intended that such customers will continue to be served at the rates now applicable to them.

The Department desires to stress the fact that the rate schedules that will be established in this order are not the result of a full and complete investigation of the Southwestern Gas & Electric Company. Such an investigation is in progress as to a part of this company's Arkansas property, and a complete investigation will be undertaken when the facilities of the Department permit. The benefits contemplated herein, to both the company and its customers, are only such as could be arrived at through negotiation, and do not purport to represent the results of a complete investigation of property values, revenues, and expenses.

The program prescribed hereunder will reduce the company's revenue over $13,000 per annum immediately. Incidental benefit accrues to the customers of Texarkana, Texas, because the company will promulgate the same schedules on both sides of the state line at Texarkana. Under the objective rate the ultimate savings to the

company's customers will approximate $35,000, of which a portion will accrue to Texarkana, Texas, based on the present volume of business. On the increased consumption which is expected, the saving will be much more, due to the application of the inducement and objective schedules.

The company has stressed the fact that further rate reductions cannot be made, nor can the rates adopted in this order be maintained if the present tendency toward rapidly increasing taxes is to continue. Costs of fuel and labor likewise have a bearing on the ability of any company to render service at any particular rate level. The Department recognizes these factors and in so far as they may be weighed without reference to a detailed investigation of property values, revenues, and expenses, expresses as its opinion the obvious principle that increasing costs of labor, fuel, and taxes must eventually operate to halt reductions in service rates unless revenues are maintained or increased through greater use.

PENNSYLVANIA PUBLIC SERVICE COMMISSION

Mrs. Lila Miller

v.

Duquesne Light Company

[Complaint Docket No. 11139.]

Discrimination, § 191 — Payment — Meter tampering.

1. Meter tampering results in discrimination against consumers whose meters are operated without interference, p. 49.

Service, § 137 — Discontinuance — Meter tampering.

2. A public service company is justified in discontinuance of service, or other action under its tariff, to prevent discrimination where evidence of meter tampering is established, p. 49.

Payment, § 24 — Estimated bill — Meter tampering.

3. A reasonable calculation of unregistered current as a result of meter tampering would be based on the average annual registration for two years prior to the last periodic test when the meter was registering accurately, p. 49.

Rates, § 334 — Inspection charges — Meter tampering.

4. A reasonable charge for extra inspections should be imposed upon a customer as a condition of restoration of service discontinued because of meter tampering, p. 49.

Service, § 162 — Charges for wiring changes — Unfiled rules.

5. An electric utility company which has discontinued service because of meter tampering is not entitled to collect a charge for changes in wiring on the customer's premises when such a charge is not in conformity with rules filed with the Commission, p. 49.

[June 2, 1936.]

COMPLAINT *against imposition of charges by electric utility upon customer after service discontinuance for meter tampering; complaint sustained in part.*

By the COMMISSION: Complainant alleges that respondent discontinued electric service to her premises on January 21, 1936, because of refusal to pay a bill of $38.53, representing $12.03 for electric current allegedly used but not metered, and $26.50 for the installation of an outside electric meter, and expenses of special inpections.

In answer respondent admits that it discontinued electric service to the premises of complainant at 3916 Evergreen road, North Side, Pittsburgh, but avers that it took such action because of the refusal of complainant to pay an estimated bill of $38.53, representing $12.03 for electric energy estimated to have been used but not properly registered on the meter because of alleged tampering, $20 for the installation of a sequence meter, and $6.50 for expenses of special inspections.

The testimony shows that the meter was put in service on complainant's premises in November, 1921. Periodic tests of this meter by respondent's representative on February 11, 1929, and on April 16, 1934, disclosed no evidence of tampering. However, respondent's meter reader on October 1, 1935, when taking the regular monthly reading, observed that the seal and right-hand stud bolt in the meter cover had apparently been tampered with. These irregularities were noted in the meter book at the time of the discovery, and reported by the meter reader to his superiors on a standard report card.

On December 18, 1935, respondent's special inspector made an examination of this meter, and found that the right-hand wing nut was turned back about one turn, that the metal washer under the wing nut was scratched and the edges shiny, that the felt washer was torn and pushed into the stud hole, and that metal particles and felt dust were found inside the cover under the right-hand stud hole. Upon the completion of this examination, the right-hand seal was replaced in accordance with respondent's standard practice.

On January 8, 1936, complying with respondent's written request, complainant called at respondent's office, was apprised of these discoveries, and informed that electric service would be discontinued unless she made payment of the sum of $38.53.

This sum was estimated by respondent to cover 401 kilowatt hours of electric energy, estimated to have

been used over a period of 16-8/15 months, at the lowest residential block rate of 3 cents per kilowatt hour, making a sum of $12.03, $20 for the installation of a sequence meter, and $6.50 for special inspection services. Respondent informed complainant that this amount might be liquidated by paying an initial sum of $8.53 on or before January 17, 1936, and thereafter the sum of $5 per month for six months. Complainant failed to pay or make arrangements to pay the sum demanded so that, on January 21, 1936, respondent discontinued the electric service. On March 10, 1936, complainant filed the instant complaint. On March 14, 1936, respondent removed its meter from complainant's premises and, on April 6, 1936, a more thorough examination of the meter disclosed additional evidence of tampering, to wit, scratches on the top and on the bottom sides of the meter disc.

Respondent's tariff electric P. S. C. Pa. No. 8, in effect at the time of these occurrences contains the following provision:

"Where the service facilities or other equipment have been tampered with resulting in improper measurement of the service supplied, the customer shall be required to pay for such electric service as the company may estimate from available information to have been used but not registered by the company's meter, and, in addition thereto, shall be required to bear all costs incurred by the company for investigations and inspections and for such protective equipment as in the judgment of the company may be necessary.

"The customer shall pay the company for any repairs to or any loss of the company's property on the premises where such repairs are necessitated or loss occasioned by negligence on the part of the customer or failure to comply with the rules and regulations under which service is furnished."

Complainant does not suggest that these provisions are either unreasonable or improper.

[1, 2] In many decisions we have fully discussed the discriminatory situation created by meter tampering. We now reaffirm the principle enunciated in these decisions, namely, that meter tampering results in discrimination against consumers whose meters are operated without interference, and that a public service company is justified in discontinuance of service, or other action under its tariff, to prevent such discrimination where the evidence of tampering is established.

From the testimony regarding the examination of the meter by respondent's meter reader on October 1, 1935, and by its special inspector on December 18, 1935, at complainant's premises, and the later examination on April 6, 1936, after removal of the meter, we find and determine that there was tampering with the meter involved and that this resulted in substantial loss to respondent.

[3-5] As to the requirement for payment of $38.53 as a condition to continuance of service, we believe this sum to be excessive. Respondent's estimate of unregistered current is based on an alleged tampering period of 16-8/15 months prior to December 18, 1935. During the first five

months of this period to January 4, 1935, the bills were presented to and paid by the Allegheny County Emergency Relief Association. Prior to the period of direct payment by the Relief Association the bills had been rendered to complainant, and when the Relief Association discontinued direct payment, respondent required complainant, on January 4, 1935, to sign a new application for service.

A reasonable calculation of unregistered current would be based on the average annual registration for two years prior to the last periodic test in April, 1934. During this period the meter was not tampered with, and was registering accurately. The average annual use for this 2-year period, May, 1932, to April, 1934, inclusive, was 950 kilowatt hours. On this basis of 950 kilowatt hours per annum the estimated consumption from January 4, 1935, the date complainant signed the application, to December 18, 1935, when tampering was discovered, covering a period of 11-½ months, would amount to 910 kilowatt hours. Thus, deducting the actual meter registration for the same period amounting to 651 kilowatt hours from 910 kilowatt hours, the estimated consumption, leaves a difference of 251 kilowatt hours of estimated unregistered current. Applying, as did the respondent, the lowest residential block rate of 3 cents, there results the sum of $7.77, to which should be added the sum of $6.50 to cover the expenses of extra inspections, which appears reasonable, making a total of $14.27.

Respondent's requirement that complainant pay it the sum of $20 for changes in wiring on complainant's premises is not in conformity with respondent's rules, and will not be allowed.

Respondent's filed tariff which was in effect at the time of the occurrences contained the following provisions:

"The customer shall provide on the premises, at a location satisfactory to the company, proper space, supports, and enclosures for metering equipment.

"Service installations shall be made in accordance with the company's 'Electric Service Installation Rules,' copies of which may be obtained at the company offices."

Respondent in support of its position refers to certain "Electric Service Installation Rules" which are not contained in its tariff on file with us.

We can give no consideration to rules and regulations established by any public service company which have not been filed with us in conformity with Art. II, § 1, Par. "d" and Art. III, § 1, Par. "c" of The Public Service Company Law. The former provides that:

". . . Every public service company shall also file with, and as a part of, such tariffs and schedules, . . . all rules and regulations that in any manner affect the said prices, charges, rates, fares, tolls, or other compensation, . . ."

The latter provides that every public service company shall have the right:

"To have reasonable rules and regulations, subject to existing law and the provisions of this act, governing the conduct of its business and the

conditions under which it shall be required to render service."

Upon full consideration of the record herein, the Commission is of the opinion and finds that respondent's refusal to serve complainant except upon payment of $38.53 was unreasonable; Therefore,

Now, to wit, June 2, 1936, it is *ordered*: That the complaint be and is hereby sustained to the extent herein noted.

It is *further ordered:* That the Duquesne Light Company, respondent, after complainant has provided a meter location in conformity with respondent's filed rules, including the necessary changes in complainant's wiring, install its meter and serve complainant upon the payment to it of the sum of $14.27, including $7.77 for current consumed but not registered and $6.50 for other expenses incurred by respondent in connection with the tampering.

It is *further ordered:* That the said sum of $14.27 be paid as follows: $2.27 upon application for service, and the balance of $12 in equal monthly instalments on the regular monthly billing dates.

WISCONSIN PUBLIC SERVICE COMMISSION

Spring Green & Wyoming Telephone Company

v.

Commonwealth Telephone Company

[2-U-964.]

Apportionment, § 38 — Expenses — Telephone company — Extension telephones — Operators' wages.

1. A requirement of the State Industrial Commission which results in basing rates of pay for female telephone operators on the number of telephones connected to an exchange does not justify the allocation of an equal share of operating expense to an extension telephone at a private branch exchange of a switched company, since if the amount of work that the operator is required to do is the criterion, an extension station is not equivalent to a main station, p. 52.

Rates, § 556 — Telephones — Private branch exchange — Extension telephones.

2. The regular switching rates of a telephone company should not be applied to each extension telephone connected to a private branch exchange switchboard, since under ordinary conditions a main station with a certain

number of extension stations would not originate as much traffic as if all the stations were main stations, p. 52.

[May 29, 1936.]

INVESTIGATION *on motion of the Commission after protest against switching rates for extension telephones connected to private branch exchange; present rate held to be unreasonable and discriminatory and new rate established.*

By the COMMISSION: This investigation was instituted on motion of the Commission under date of January 29, 1936. In a letter dated December 16, 1935, the Spring Green and Wyoming Telephone Company entered a protest with the Commission alleging that the Commonwealth Telephone Company proposed charging its authorized switching rate of 50 cents per month for each extension telephone connected to a private branch exchange which the Spring Green and Wyoming Telephone Company contemplated installing for one of its customers. On December 20, 1935, the Commission entered into negotiations with the Commonwealth Telephone Company regarding the complaint and subsequently proposed that the Commonwealth Telephone Company file with the Commission the following type of rate:

1. The regular switching rate to be applied to the connection to the private branch exchange switchboard.

2. The regular switching rate to be applied to each 3-extension telephones or fraction thereof connected to the private branch exchange switchboard.

The Commonwealth Telephone Company advised that it did not consider the above rate reasonable and notice of investigation in this matter was issued shortly thereafter.

Hearings scheduled for March 10th and April 14th were postponed at the request of the Spring Green and Wyoming Telephone Company. At a hearing on April 30, 1936, the following appearances were entered:

Commonwealth Telephone Company, by Fred H. Runkel, Vice President; Spring Green & Wyoming Telephone Company, by W. E. Walker, Secretary.

[1, 2] At the hearing Commonwealth Telephone Company presented exhibits dealing with the requirements of the Industrial Commission with respect to the payment of operators' wages in exchanges the size of Spring Green.

These regulations provide that the rates of pay for female telephone operators are determined by the size of the exchange and in determining the size of the exchange all telephones connected to the exchange are counted. The company therefore contends that each telephone connected to an exchange should bear its proportionate share of the cost of operators' wages. In other words, the company's position is that if all telephones in the exchange are counted in determining the rates of pay to operators regardless of the classification of the telephone, it follows that each telephone connected to the exchange even though it is an extension telephone to the private branch exchange of a

switched company should carry an equal share of operating expense.

On this basis and under certain assumed conditions the exhibit shows that the portion of traffic operating expense representing operators' wages would be 40.6 cents per month for each telephone connected to the exchange.

According to these exhibits the company would be serving the proposed private branch exchange installation at an actual loss under the rates suggested by the Commission.

After examining the exhibits presented by the company it appears that the rates which the Commission has suggested would be inadequate if the company was required to pay its operators a monthly wage equivalent to 40.6 cents per month for each telephone instrument receiving connection through the exchange. However, we are informed that in determining the various sizes of exchanges and the rates of pay in exchanges of each size, the Industrial Commission had primarily in view the amount of work that would be required in order to operate the exchange. Under ordinary conditions it does not appear that a main station, for example, with three extension stations would originate as much traffic as four main stations; nor that the proposed private branch exchange system involved in this case which, we are informed, will have eight extension stations, would originate as much traffic as eight main stations. However, this private branch exchange system would doubtless originate more traffic than one main station. Accordingly, we took cognizance of this fact in our suggested rate. We are of the opinion that if the amount of work that the operator is required to do in operating the exchange is the criterion in determining the classification of the exchange, an extension station is not equivalent to a main station.

The company has submitted a figure which purports to be the additional expense over and above the traffic expense of switched stations at Spring Green. We are unable to determine what material additional expense would result from an extension station, attached to a switched company private branch exchange. The testimony fails to disclose what additional items of expense the company had in mind when it submitted the figure. If such additional expense exists, we are of the opinion that it is given ample consideration in the rates which are hereinafter ordered.

After consideration of the evidence, files, and records in this proceeding, the Commission finds and determines that the present switching rates of the company as applied to private branch exchange systems are unreasonable and discriminatory and that the rates set forth in the following order are reasonable and nondiscriminatory.

It is therefore *ordered* that, effective with the first billing date following this order, the Commonwealth Telephone Company is hereby authorized and directed to file and charge the following rates applicable at its Spring Green exchange.

Switched Private Branch Exchange Systems

1. A charge of 50 cents per month for the connection to the private branch exchange switchboard.
2. A charge of 50 cents per month for each group of 3-extension stations or fraction thereof connected to the private branch exchange switchboard.

PENNSYLVANIA PUBLIC SERVICE COMMISSION

Re Philadelphia Rapid Transit Company

(Application Docket No. 33559.)

Valuation, § 57 — For issuing securities — Earlier rate valuation.

1. A valuation of property made several years ago reflecting reproduction cost new less retirements, with additions included at cost, is not the basis of valuation for the purpose of securing approval of a plan of reorganization involving among other things the issuance of securities, p. 54.

Valuation, § 52 — For issuing securities — Original cost.

2. Original cost is an essential element in determining the present-day value of property for capitalization purposes, p. 54.

[March 24, 1936.]

APPLICATION *for approval of plan of reorganization; applicant ordered to submit figures on original cost.*

By the COMMISSION: The application in this proceeding was filed March 30, 1935, for approval of a plan of reorganization theretofore submitted by the applicant to the United States District Court for the Eastern District of Pennsylvania under the provisions of § 77B of the Bankruptcy Act.

The plan of reorganization contemplates the merger of the Philadelphia Rapid Transit Company and twenty-five street railway and traction companies, known as the "Underliers," into a new company to be known as the Philadelphia Transportation Company, and also contemplates the issuance of certain classes of stocks and bonds of the new company.

[1] Accompanying the application for approval, there was filed by the Philadelphia Rapid Transit Company an Inventory and Appraisal of Physical Property as of January 1, 1935, purporting to total the sum of $211,854,814. Of this sum $206,449,505 is explained by the following notation:

"The sums of money attributed to the various items of property, except as noted below, reflect the *reproduction cost new as of June 30, 1919,* PSC Docket 3504 (P.U.R.1923E, 190) less retirements, and with additions included at the *cost* recorded in 'Special Accounts.'"

The valuation of the property as of June 30, 1919, arrived at for rate-making purposes, should not, in our opinion, be the basis of the valuation of the property, as of January 1, 1935, for the purpose of the present proceeding which involves, *inter alia,* the issuance of securities.

[2] While the Commission will, of course, give due consideration to all proper factors in order to determine a fair valuation for capitalization pur-

poses, we have heretofore held in similar cases that in determining the present-day value of property, the original cost thereof is an essential element.

The Commission therefore requires of the applicant, the Philadelphia Rapid Transit Company, a detailed statement of original cost of the properties devoted to the public use, less proper allowances for accrued depreciation; therefore,

Now, to wit, March 24, 1936, it is *ordered:* That the applicant, Philadelphia Rapid Transit Company, take such steps as shall be necessary to determine the original cost new, less proper allowance for depreciation accrued to April 1, 1935, of all property, now used or useful in the public service, owned by said applicant, and of all property, now used or useful in the public service, owned by each underlier proposed to be merged with said applicant under the plan of reorganization dated December 1, 1934; and that upon such determination, the results thereof, together with the sources from which such original cost determination has been obtained, be presented to the Commission in such form that each piece of property claimed to be now used or useful in the public service shall be identifiable with the original cost value assigned to it upon the books or other records of applicant or of each underlier.

It is *further ordered:* That the applicant submit, within fifteen days from the date hereof, an estimate as to the period of time within which it will be able to procure and submit the foregoing information.

NORTH DAKOTA DISTRICT COURT, FIFTH JUDICIAL DISTRICT, WARD COUNTY

Re Tri-City Motor Transportation Company

Great Northern Railway Company et al.

v.

Tri-City Motor Transportation Company

Appeal and review, § 33 — Trial de novo.

1. An appeal from a Commission order must be tried *de novo,* by a new trial or anew on the record below, p. 56.

Monopoly and competition, § 5 — Province of court — Motor busses — Railroad territory.

2. The gradual encroachment of the trucking business into territory of rail-

roads is an economic question with which the court has nothing to do, except that it must recognize the purpose of the law, p. 56.

Monopoly and competition, § 68 — Motor bus competition — Railroad territory — Factors considered.

3. Large railroad investments, large payment of taxes, and the fact that railroads cannot quit when economic conditions are against them must have a bearing on the amount and weight of testimony necessary to find that a few hours faster freight service to a limited number of the public by motor carrier should be the basis for a duplication of service, although the law is primarily for the benefit of those served, p. 56.

[March 6, 1936.]

APPEAL *from Commission order relating to authorization of motor carrier service; circumstances held not to show necessity for service.*

LOWE, J.: [1] This is an appeal from the Board of Railroad Commissioners. Our statute was recently amended providing that such appeals shall be tried *"de novo,"* which, in plain English, means by a new trial, or anew on the record below. This is a burden put on the court by the legislature which it would like to avoid, but we cannot see any way of doing it.

The issue is whether public convenience and necessity require common carrier service between Carrington and Minot, and between New Rockford and Minot. The court, in going over the testimony produced before the Railroad Commission, is convinced that the territory mentioned is served by the Great Northern and Soo lines with a reasonably adequate service under the circumstances, and while the convenience might be improved to some extent by the truck service, yet the circumstances do not show a necessity for such service, and a truck service would be a substantial duplication.

[2, 3] The gradual encroachment of the trucking business into the territory of railroads is an economic question with which we have nothing to do, except that we must recognize the purpose of the law. While the law is primarily for the benefit of those served, yet it must be that the large railroad investments, large payment of taxes, and the fact that they cannot quit when economic conditions are against them, must have a bearing on the amount and weight of testimony necessary to find that a few hours faster freight service to a limited number of the public, should be the basis for a duplication of service.

Findings of fact, conclusions of law, and order for judgment will be signed in accordance with the foregoing.

The March of Events

Adopts Uniform System

THE Federal Power Commission recently adopted and on July 1st made public a "Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act." Superseding the system now in effect, which was adopted November 20, 1922, with subsequent amendments, the new system is to take effect January 1, 1937, giving the utilities affected six months' time in which to adjust their accounting in accordance therewith.

The commission stated that the new system marks a distinct advance in utility accounting, "developed in close coöperation with the National Association of Railroad and Utilities Commissioners and other state and Federal agencies, after obtaining the views and recommendations of the electric utilities; embodying the long experience and improvements made by state and Federal regulatory bodies." The commission expressed the belief that its adoption would go a long way toward assuring practically nation-wide uniformity in the rules and regulations governing the accounts of public utilities.

Navy Wants Engineers

AN examination to fill vacancies in the commissioned grade of assistant civil engineer, United States Navy, with the rank of lieutenant (junior grade) has been announced by the Navy Department, Bureau of Yards and Docks. It will be held on or about October 15, 1936, but applications as to eligibility must be completed and forwarded to the Chief of the Bureau of Yards and Docks, Navy Department, Washington, D. C., not later than September 15, 1936. Applicants will be informed after that date whether or not they are qualified to take the examination.

Candidates must be male citizens of the United States between twenty-two and thirty years of age with a degree from a college or university of approved standing in some branch of engineering fitting him for the practice of engineering in the Navy Corps of Civil Engineers which includes civil, mechanical, electrical, and architectural engineering.

A candidate must further have not less than three years of engineering practice, two of which must be subsequent to the receipt of his first engineering degree. Candidates must also be of good moral character and reputation and be able to meet the physical requirements specified by the Department. Initial compensation for the junior rank of second lieutenant is approximately $3,160 per annum, with dependents, $2,700 without dependents, including allowances. Base pay is increased every three years in all ranks up to and including captain. For further information communications should be addressed to the Navy Department, Bureau of Yards and Docks, Washington, D. C.

Urges Federal Reversal on Power

A REVERSAL of the government's policy toward the electric power industry in several vital respects would release a "constructive force of tremendous magnitude in the struggle to restore prosperity," the Guaranty Trust Company stated in its recent report of a study of the position of the utilities and their relation to recovery published in *The Guaranty Survey*.

The report said there were few directions in which public policy at present was working so clearly to the detriment of business recovery as in the electric power industry. It asserted that recent developments in the government's policy have impaired the outlook for utility earnings and the ability of the industry to raise new capital. It cited as illustrations the direct competition of the Tennessee Valley Authority and other contemplated power projects of the government program, as well as the threat of destruction facing the public utility holding companies under the terms of the Public Utility Holding Company Act.

Reports Distribution Costs

THE Federal Power Commission on July 6th issued its report on the cost of distribution of electricity which concerns "one of the most complex and important, yet least explored elements in the entire field of electric light and power."

Vice Chairman Basil Manly, commissioner-in-charge, said the study made by the commission's national power survey covers the cost of retail distribution of electric energy, from local substations to customers' meters, including commercial, industrial, and rural, as well as residential. Surveys and investigations were made of the distribution systems and records of 22 private and municipal electric utility systems serving urban or rural territory or both which reflect a wide variety of service conditions.

Concerning residential service in urban territory, the report states the lowest distribution system investment per customer is $45.18 at Lewisburg, Pa., and next lowest, $48.27 at Springfield, Ill. Third lowest was $50 for Superior, Wis., and the highest was $117.99 for the Puget Sound Power & Light Com-

pany of Seattle. High investment cost was attributed in this instance to competition from municipal plant and distribution system able to service entire city area although the company serves less than one fourth of total of residential customers within reach of its lines.

To Study Coöperatives

A THREE-MAN commission under President Roosevelt's orders sailed July 1st for Europe to study huge consumer coöperative organizations and possible application of their methods to numerous coöperatives already formed in the United States. The commission, which is to make recommendations to the President on its return, is composed of Jacob Baker, Assistant Works Progress Administrator; Leland Olds, secretary of the New York State Power Association, and Charles E. Stuart, New York consulting engineer.

The commission will begin its work in Stockholm, and will visit Finland, Czechoslovakia, France, and the British Isles, in that order.

Baker said the commission is especially interested in coöperatives dealing in foodstuffs, clothing, water power, and health and other personal services.

Television Stages First "Show"

TELEVISION staged its first "planned show" over the metropolitan area of New York on July 7th, favored by the atmospheric conditions of a perfect July day. The invited guests who viewed the performance at Radio City were licensees of the Radio Corporation of America. All others who looked in from the outside were "uninvited." By means of specially built image receivers they peeped under the ethereal tent. The demonstration revealed that television on the ultra-short waves is no more secret than sound broadcasting, which also had its eaves-droppers, according to *The New York Times*.

The first "act" of the broadcast presented Major Gen. J. G. Harbord, chairman of the board of RCA, and David Sarnoff, president, sitting at a desk reviewing television progress. The scene shifted to Otto S. Schairer, vice president in charge of patents for the organization, who reported to the 225 licensees that there were no plans to design commercial television sets for 1936. He revealed that three sets were now in operation in the New York area, the most distant being at Harrison, N. J. Within a short time he estimated more than 100 receivers would be distributed at scattered outposts.

Next there was a dance by twenty girls, introduced as the Water-lily Ensemble. Several films, a fashion show, and other entertainment rounded out the program.

Landis Reëlected Chairman

JAMES M. Landis was reëlected chairman of the Securities and Exchange Commission on July 1st for his second term, which will end June 30, 1937. He was named for his first term on September 23, 1935, immediately after the resignation of former Chairman Joseph P. Kennedy.

Mr. Landis became one of the original members of the SEC, having been appointed on June 30, 1934, by President Roosevelt. Previously he had been a member of the Federal Trade Commission in 1933 when that agency was administering the Securities Act of 1933. He was called here from Harvard University to give his aid and advice in connection with that act. His reëlection set at rest rumors that he would return to Harvard to resume his duties as professor of legislation there in September.

Rail Pension Act Clarified

THE railroad retirement act became suddenly constitutional last month when District Court Justice Jennings Bailey "corrected" attorneys on their interpretation of his recent decision. His clarification left the government's railroad retirement board free to set up pension machinery, but it left outlawed a twin tax measure which would have provided a pension fund from a 3½ per cent payroll tax.

Justice Bailey signed a court order on the case, after including a provision elaborating on the board's right to function. As a result, the government is allowed to set up a pension system for rail employees and pay the pensions out of the general Treasury fund, if it wishes. It is enjoined from building up the fund by taxes on either employees or employers. The case was expected to be appealed.

Alabama

Moves to End Telephone Fight

A MOVE to end the state's telephone rate fight developed last month when counsel for the Southern Bell Telephone Company filed motions with the Montgomery circuit court asking dismissal of appeals taken from the rate reduction recently ordered by the public service commission. The commission had ordered a telephone rate reduction of $250,000, effective May 1st, but Attorney General Carmichael and Horace C. Wilkinson, representing the city of Birmingham, had filed appeals on contention that the ordered reduction was not large enough.

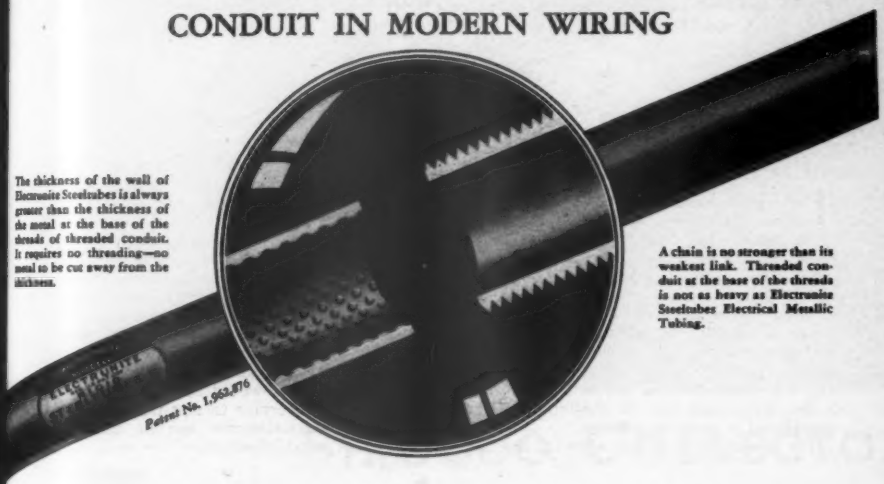
The action for the telephone company was filed by Robert E. Steiner, Jr., who contended that neither the city of Birmingham nor the

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state was given the right of appeal by statute, and that the act of the legislature, which created the office of people's public service attorney, did not confer on the state or the city the right to take an appeal as individuals.

Prior to filing the motions, the public service commission had denied a petition of the city of Birmingham asking reparations or rebates of approximately $130,000 for customers of the Southern Bell Telephone Company.

Arizona

Favors Franchise

ONE hundred and fifty-one votes were cast in the special election held June 29th at Chandler, 148 being in favor of giving the franchise for piping of natural gas to Chandler by the Central Arizona Light and Power Company, with only 3 against the issue.

Arkansas

Passes Telephone Ordinance

THE Fort Smith city commission on June 23rd passed an ordinance making it a misdemeanor for "any person, firm, or corporation engaged in furnishing telephone service" to require telephone subscribers to install coin telephones. The ordinance provided a fine against the company if it should refuse to install and maintain telephone service upon the payment of flat rates applicable to the type of service demanded. The penalty for violation is a fine not to exceed $10 a day with each day of continuous violation considered a separate offense.

The commission acted after a meeting of business men who protested that their businesses would be damaged if they were prevented from supplying telephone service to the public.

Subsequently, the Southwestern Bell Telephone Company filed an appeal from the ordinance with the state regulatory commission. The company asked that the ordinance be suspended and that the case be consolidated with the general telephone rate investigation now being made by the commission. The company charged that the ordinance was arbitrary because it would compel the company to furnish free service to nonsubscribers by permitting indiscriminate use of telephones in business establishments.

California

Blocks PWA Aid

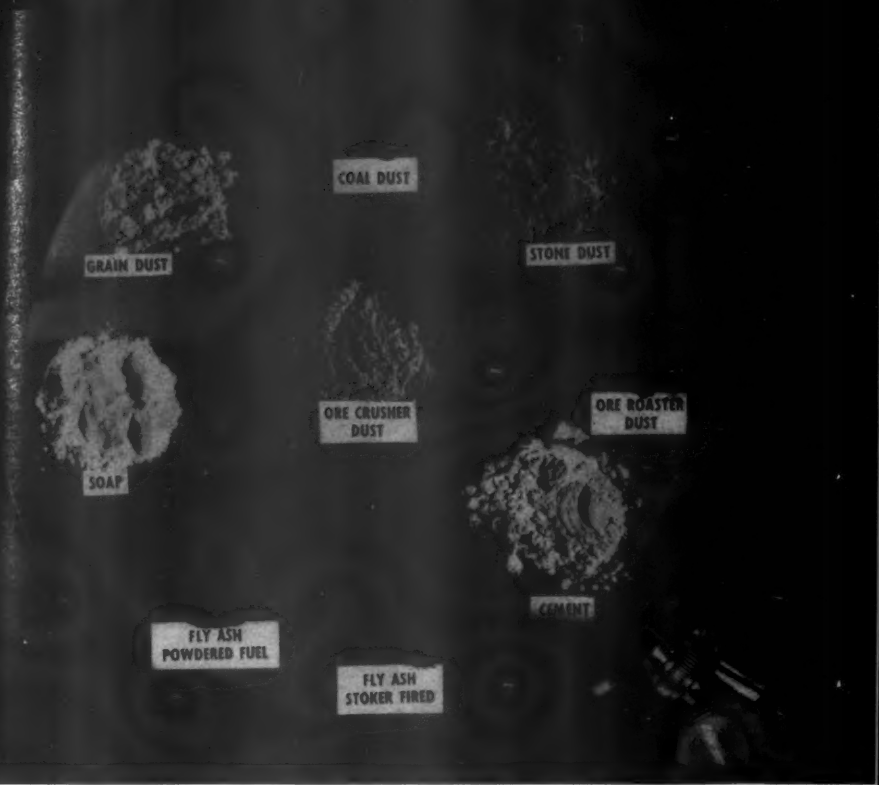
SECRETARY of Interior Ickes, national PWA administrator, announced on July 2nd that he will "not encourage" San Francisco to attempt to secure PWA financing for a proposed electrical transmission and distribution system for Hetch Hetchy power. Neither would Ickes hold out any hope to San Francisco that the city may secure any Federal funds for the proposed subway project. He said he believed the city would be willing to consider making the Hetch Hetchy power transmission and distribution system a PWA project, but that he would not encourage them because it would need too much money.

Ickes' office, however, said city officials had been given the suggestion that they might file applications for WPA funds both for the Hetch Hetchy power scheme and also for the subway project. It was explained that Secretary Ickes is opposed to tying up large sums out of the $300,000,000 total he was declared to have available for PWA projects, and his office said a grant to San Francisco of from $30,000,000 to $40,000,000 would take too much of that total. It was indicated that the administration wants to spread the loans over numerous states during the coming months.

Court Lifts Ban

THE state supreme court on June 25th washed its hands of the dispute over bringing Hoover dam power lines through South Gate and Huntington Park, leaving the Los Angeles city power bureau free to go ahead with the work. The smaller cities had fought vigorously against erection of the high metal towers carrying tremendous electrical current in their residence districts, despite the fact that Los Angeles had bought a right of way through the towns.

The court held it had no jurisdiction in the petition before it, since there was still an appeal pending in the appellate court. Thus a temporary restraining order, which had halted work nearly a week, was automatically lifted. Los Angeles attorneys pleaded for speedy action by the supreme court, declaring the city would be heavily penalized if the work was not completed on schedule.



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To Build Power Drops

PLANS to install substructures for four power plants on the all-American canal in California were announced June 30th by the Bureau of Reclamation. Bureau officials said the decision to install the foundations at this time, while adding $1,075,000 to the total cost of the canal, actually would mean a saving of $465,000 to Imperial valley water users by eliminating necessity of substituting power drops for regular canal drops at a later date.

The substructures will be placed at power drops Nos. 2, 3, 4, and 5, between 40 and 64 miles distant from the canal head.

Two other potential power drops—No. 1, with a head of only 12 feet, and the disputed Pilot Knob site on the international border—were not included in the bureau's plans.

District of Columbia

Utility Service Assailed

REPRESENTATIVES of more than fifty citizens' associations, speaking for a majority of Washingtonians, last month demanded a reduction in fares and improvement in service on the busses and street cars of the Capital Transit Company. Meeting at the call of William A. Roberts, people's counsel of the District, the citizens' representatives, in a 3-hour session of debate, aired their grievances against public utilities in general and the transit company in particular, it is reported.

Although they were prevented by rules of the meeting from adopting any resolutions, Mr. Roberts said he considered their declarations a mandate to (1) petition the public utilities commission for a uniform cash fare on street cars and busses of less than 10 cents; (2) petition against the operation of one-man street cars; (3) petition against present surcharges for installation and use of hand-set telephones.

Florida

Announces Optional Rate Schedule

AN optional rate schedule under which consumers may save as much as 28 per cent on their bills was announced July 1st by the People's Water & Gas Company, serving Miami Beach. To obtain the new rates, consumers must agree to use 2,400 cubic feet of gas a month a year. The minimum monthly bill under the lower rate will be $3 and gas prices will graduate downward from $1.35 a thousand feet for the first 25,000 feet used to 80 cents a thousand for all over 400,000 feet used.

The new rates became effective July 1st in Miami Beach, Surfside, Fort Lauderdale, Hollywood, Dania, Hallandale, Ojus, and North Miami Beach. Persons wishing to continue under the old rate, which carries a minimum charge of $1.50 a month, may do so.

May Acquire Water System

AT a recent meeting of the Miami city commission it was indicated that city officials would have a complete survey made of the feasibility of operating a municipal water distribution system, unless negotiations with the Miami Water Company result in settlement of the fire hydrant controversy and an agreement on extension of water mains.

Action on the survey was deferred pending the outcome of negotiations. If unsuccessful, the city manager will be directed to have the rate and traffic board undertake a complete survey of the water distribution system.

Illinois

Decision Upholds Ordinance

IN a sweeping decision, the district circuit court last month upheld the ordinance under which the city of Jacksonville proposed to construct a municipal light and power plant for the purpose of selling energy to private consumers, and also upheld the state statute under which the ordinance was prepared.

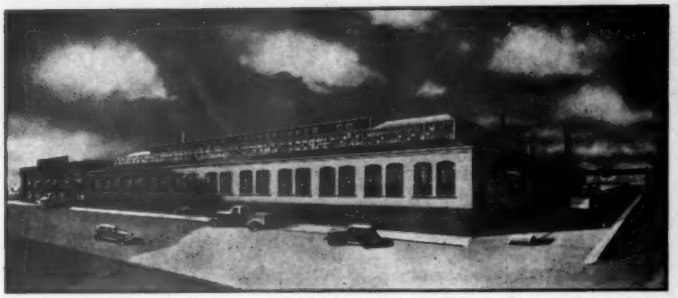
The high point of the decision came when the court upheld the proposed method of financing the project, supporting the contention of the attorneys for the city that under no circumstances could the mortgage certificates, to be issued to provide the city's share of the improvement, become a general obligation.

Although there were no statements regarding an appeal action, the case must be given the approval of the state supreme court before the city can obtain the grant offered by the Federal government for 45 per cent of the project.



No. 9
July 30, 1936

Pennsylvania's Page



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Indiana

Mayor Found Guilty

MAYOR C. W. H. Bangs on July 3rd was held guilty of contempt of court for violation of a permanent injunction issued a year ago, forbidding extension of the municipal light plant service, and as a result faced his second term in jail. The court assessed damages of $2,520 against the mayor and ordered him to jail unless he disconnects the lines of 600 private patrons from specially built power lines from the municipal street light plant.

Special Judge Hubert DeVoss ruled Bangs acted as an individual and not as mayor in supplying municipal power, so the court cannot logically proceed against the city.

The mayor demonstrated last summer that he has no fear of a jail sentence, having spent 101 days in jail on a similar charge, and indicated that he would go to jail again, it is reported.

Iowa

To Vote Power Franchise

VOTERS of Boone will go to the polls August 6th for a special election in which the Iowa Electric Light and Power Company is asking for a 15-year electric power franchise.

The firm contemplates an eventual $400,000 development program and wants the franchise in order to proceed with that program.

Louisiana

Bill Given Approval

SUPPORTING Governor Leche's relief program, the state legislature early this month is reported as having adopted a bill increasing the "severance tax" on natural gas from one fifth to three tenths of one cent per thousand cubic feet. The legislature also levied a one per cent tax on the sale of natural gas.

Maine

Abandons Quoddy Project

PRESIDENT Roosevelt, at a press conference early this month, announced he had abandoned further efforts to continue the Passamaquoddy tidal power project. Congress refused to appropriate money to continue the project, started with presidentially allocated relief funds.

Although tentative plans for utilization of the construction camp, located near Eastport, Me., as a veterans' hospital or a suburban community similar to those being built by the Resettlement Administration, were said to have been worked out by both Resettlement and Veterans' administrations, officials hinted there was a possibility that it might be used for still some other government activity.

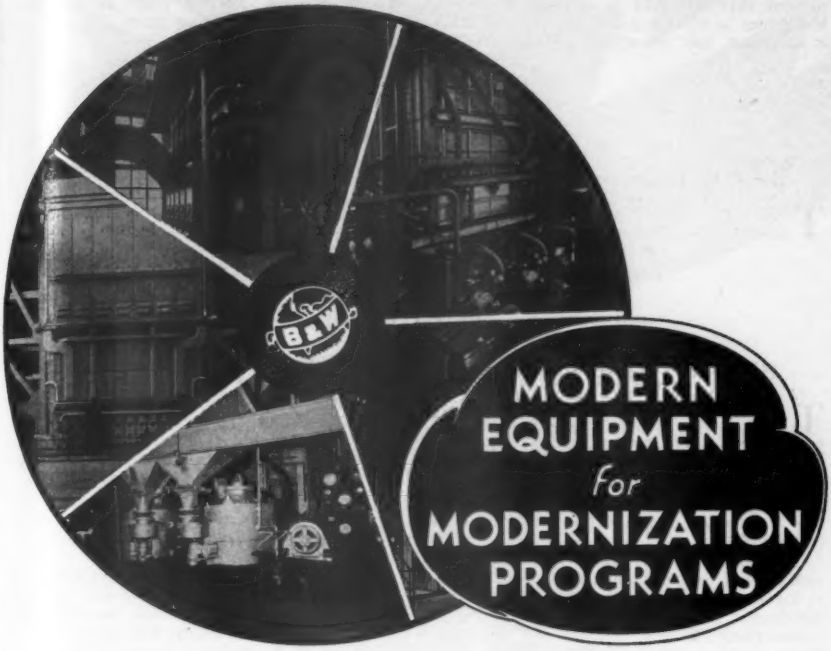
Maryland

Power Estimates Conflict

EDWARD Anson, an engineer employed to make a survey for the Consumers' Coöperative Company, which wishes to buy and sell electric power in Calvert county, last month testified before the public service commission that the company expected to sell an average of 348 kilowatt hours to seasonal residents and 840 kilowatt hours to year-round residents.

In contrast to this estimate, F. W. C. Webb, attorney for the Maryland Light and Power Company, which is opposing the application of the coöperative company, submitted records showing that the company now doing business in that territory and on the eastern shore sold only an average of 130 kilowatt hours of electric power to seasonal users (four months) and 600 kilowatt hours to year-round users.

The coöperative company applied to the utility commission for permission to operate in Calvert county and contended that a tentative loan already had been granted by the Rural Electrification Administration for construction of lines and furnishing power in Calvert county. In the event that power cannot be purchased from electric supply companies, counsel for the coöperative company told the commission the REA has in-



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dicated that it would be willing to advance the money to erect a power plant. The REA, it was said, has tentatively pledged itself to advance about $90,000 with an additional $40,000 for a generating plant if need were found for it.

Massachusetts

Rejects Tourist Camp Bill

THE state house of representatives last month by a voice vote killed a bill which would have regulated tourist camps in the Bay state on a public utility basis. The bill was sponsored by James G. Moran of Mansfield, president of the senate.

Michigan

Slashes Telephone Rates

THE state public utilities commission recently ordered cuts amounting to $1,500,000 a year in Michigan Bell Telephone Company revenues. The company was expected to accept the order without protest. The largest item in the million and a half cut was a reduction of residential rates in Detroit of $585,000.

The reduction was based on the commission's belief that Michigan Bell property used in intrastate business (the only business over which the commission has jurisdiction, but representing 95 per cent of the company's total) was worth $150,000,000, that gross revenues from intrastate operations would be approximately $33,164,199 in the next year, that operating expenses and taxes would amount to $18,500,226, that 3 per cent was a sufficient allowance for depreciation, and that a 5½ per cent return was all stockholders should expect under present economic conditions.

The commission directed Michigan Bell to pay only $200,000 a year instead of $459,243 under its license contract with the American Telephone and Telegraph Company. The commission stated that but for new or increased Federal taxes, the $1,500,000 reduction could have been larger by $500,000 a year.

Gas Line Completed

WITH the completion of the extension from Zionsville, Ind., to Detroit, the 1,200 mile natural gas pipe line from the Texas field to this city was ready for service, A. I. Snyder, chief engineer of the Detroit City Gas Company announced on July 6th. The Michigan Gas Transmission Corporation built the extension from Zionsville.

The gas company had divided the metropolitan Detroit area into 27 sections and was planning to switch customers from manufactured to natural gas, section by section, a process that will take about four months.

Minnesota

Phone Rate Hearing Ended

HEARINGS were concluded July 2nd on the appeal by the Tri-State Telephone and Telegraph Company from a Minnesota Railroad and Warehouse Commission order for telephone rate reductions in St. Paul.

The case, one of the longest on record in Ramsey district court, was heard by Judge Gustavus Loevinger, beginning May 18th. Most of the presentation consisted of the introduction of statistical exhibits and arguments on the record made when the case was heard before the railroad and warehouse commission. The Ramsey district court record totaled more than 1,000 typewritten pages, it is said.

Attorneys for the telephone company were given until August 10th to file briefs, with the state given until September 10th to file a reply, after which Judge Loevinger will take the case under advisement.

Missouri

Signs Light Bill

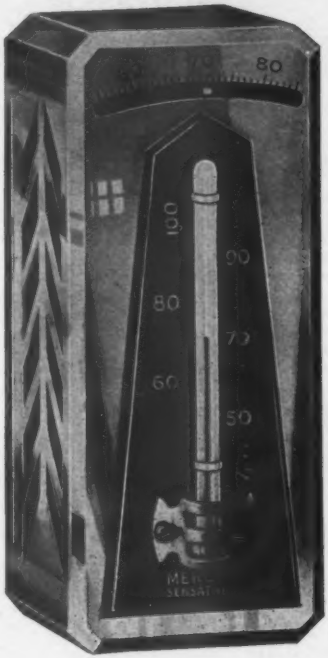
MAYOR Dickmann on July 3rd signed an ordinance authorizing the city of St. Louis to enter into a 10-year contract with the Union Electric Light and Power Company to furnish electricity for lighting of streets and city buildings.

Heretofore contracts have been of a shorter term, the most important of them usually

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IT PAYS TO GET THE BEST

being for three years, but Director of Public Utilities E. E. Wall estimated that the city would save at least $31,000 a year by the long-term contract. If the street lighting of the city were fully electrified as contemplated, the saving would reach as high as $68,000 annually, it was stated.

Pays for Trees Killed by Gas

THE Laclede Gas Light Company, in a settlement out of court, recently paid to the city of St. Louis $12,050 for 482 trees killed by gas seeping from the mains and house service pipes of the company. The city had asked for $50,000 actual damages in its suit against the gas company, which would have defrayed the cost entailed by the city in removing the dead trees and replacing them with new ones. The settlement, made on the basis of $25 a tree, paid only the expense of removing the trees that had been killed, it was reported.

The city's action was heard before a referee. Eleven hundred pages of transcript had been taken and both the city and the Laclede Company had filed lengthy briefs before the settlement was reached.

Nebraska

Tri-County Loser in Appeal

IN an opinion written by Judge Eberly and concurred in by all other members, the state supreme court last month overturned the action of State Engineer Tilley in granting water rights in the Platte river to the Tri-County project, which operates under the corporate name of the Central Nebraska Public Power and Irrigation district, on the ground that the law does not permit diversion of river flow from one watershed to another.

All of the orders of the department of roads and irrigation approving and granting Tri-County applications were set aside, annulled, and revoked, and the cause remanded to the department with directions, if desired, to grant leave to amend those applications by limiting the use of the waters taken thereunder for power and irrigation purposes to lands situated within the Platte river watershed.

PWA officials said the PWA hydroelectric project on the Platte river would not be affected by the decision. After studying the decision, PWA attorneys said it had upheld the right of the hydroelectric project to use water from the Platte for manufacturing power. PWA was not a party to the suit upon which the decision was based.

Lower Valuations Denied

NEBRASKA power companies last month were denied petition to the state board of equalization for substantial reductions in franchise valuations. Companies contended threat of government competition lessened intangible values of properties and future of industry was beclouded in the state by emergence of rural electrification and public power projects.

The utilities pointed out that two power projects were nearly completed and thus presented formidable competition for an already limited market. Petition contended assessed valuation of company properties for taxation purposes was equal to or greater than actual values, although farm and rails were assessed at 75 per cent of market values of holdings.

New York

Accepts Rate Cut

THE New York Telephone Company recently advised the state public service commission that it would accept the commission's order of June 26th, which makes reductions effective August 1st on charges for certain miscellaneous services and facilities, including service connection charges, hand telephones, extension telephones, and short-haul toll calls.

The public service commission's order, it was estimated, would result in an annual reduction of revenues of approximately $4,200,000 and was the first major reduction in over ten years.

James L. Kilpatrick, president of the New York Telephone Company, said that although the company had been advised by its attorneys that the order was of doubtful legality and filed objections on this point, it had decided not to oppose the commission's action in the courts.

The decision to make the new rates effective was based on the following conclusions, Mr. Kilpatrick said: (1) the heavy cost of continuing the rate case or litigating the order will be avoided; (2) the commission's opinion upon which the order was based directs that a reduction be made temporarily in the amounts set aside for depreciation; and (3) it is hoped that the temporary depreciation provision, taken in connection with improved general business and some stimulation in telephone usage due to the lowered rates, will offset a substantial portion of the revenue loss and that net revenues will not be materially decreased.

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North Carolina

Drop in Electricity Surplus

THE state commission has recently announced a rapid diminution in the surplus supply of electricity in that state and has intimated that if the increase in sales of heavy appliances keeps the present pace, additional supply from TVA in western sections of the state might be needed within the next five years.

When TVA power comes to western North Carolina, it was stated, the farm home will be given the greatest consideration. Statistical records show that in 1930 less than three per cent of the rural homes in that territory were electrified. This number was said to have increased since then. The electricity transmitted to western North Carolina will be sold to counties, municipalities, farm organizations, and partnerships.

Telephone Rates Cut

CULMINATING negotiations that had lasted over a period of four months, the state utilities commission on July 2nd announced a reduction in rates of the Durham Telephone Company to effect an annual saving of $25,633 to subscribers.

Commissioner Stanley Winborne pointed out that $6,950 of the saving to subscribers would be immediate since 2,250 of the Durham utility's 6,303 subscribers have had hand sets for more than eighteen months and would no longer have to pay the 25 cents monthly fee. The new rates are effective as of August 1st.

Ohio

Voluntary Rate Cuts

VOLUNTARY reduction in utility rates of privately owned companies operating in Ohio effected savings totaling $679,524 during April, May, and June, it was announced on July 2nd by E. J. Hopple, chairman of the state utilities commission.

According to Chairman Hopple, this quarterly saving, together with the savings of $1,889,340 for the first three months of the current year, amount to a total saving of $2,568,864 for the first six months. He pointed out further that the reduction in rates meant an annual savings of $6.50 per customer, or slightly more than 50 cents per month.

The reductions amounted to $6,430 for gas; $296,369 for domestic consumption of electricity; $71,146 for commercial consumption of electricity, and $305,578 for electricity consumed in industries.

Halts Bond Issue

A TEMPORARY injunction early this month prevented the city commission of Sandusky from issuing bonds for construction of a $1,400,000 municipal light plant. The injunction was issued by Common Pleas Judge E. H. Savord on complaint of C. B. Wilcox to the city solicitor, who filed the application. Wilcox, district manager of the Ohio Public Service Company, claimed an ordinance adopted for sale of the bonds did not comply with the city charter.

Public Utility Platform

THE Ohio Republican state platform pledges the adequate regulation of public utilities and considers it a matter of paramount concern both to the public and the public utility companies serving the public.

The plank pledges elimination of procedural delays before the public service commission to avoid a "breakdown in the entire regulatory system," and is generally regarded as an endorsement of a program drawn up two years ago by a special committee of the Ohio Bar Association that recommended reforms to expedite regulatory procedure.

The plank stated that the public utilities commission in rate matters pending before it should adopt the practice of conducting an investigation through its own staff as to the adequacy of the rates in question and that it should adopt a procedure which would minimize the taking of testimony introduced by contesting litigants extending over a period of months and years. In short, the plank pledges itself to a program of simplifying the process of fixing rates for public utility service.

Oklahoma

Companies Drop Suit

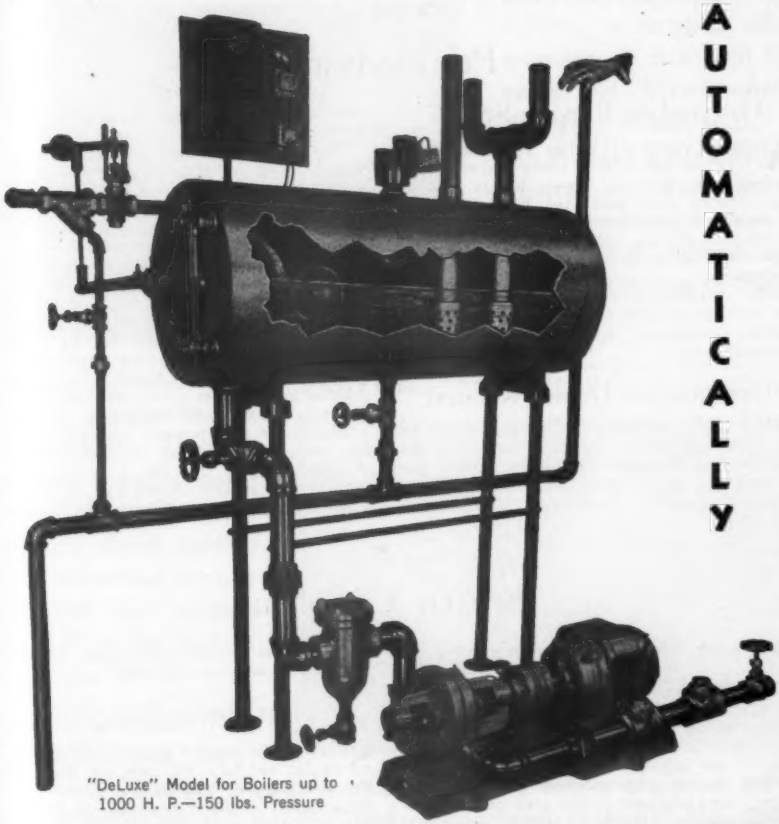
WITHDRAWAL of the Oklahoma Utility Company from a 4-company test of the New Deal's 200 million dollar municipal power program was announced last month by the Public Works Administration. The action came after the private concern agreed with Hominy, Okla., that its part of the anti-administration suit would be dropped if the

The Most Vital and Toughest Job in the Boiler Room is to Maintain a Constant and Uniform Water Level in the Boiler—

What job compares in importance and asks as big a penalty for failure to handle it properly? This matter of watching the water level is the easiest thing for a man to overlook. It is a job for a mechanical device which cannot forget. Here it is...

The Original KISCO Return-to-Boiler System—The ONE System Which Handles the Work of THREE

AUTOMATICALLY



"DeLuxe" Model for Boilers up to 1000 H. P.—150 lbs. Pressure

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DESIGNERS AND MANUFACTURERS OF BOILER ROOM EQUIPMENT

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city purchased 15 miles of the company's rural electrification lines.

The agreement allowed Hominy to start work on its own municipal power plant, financed with a $150,000 allotment by the Public Works Administration.

Construction had been held up by court action.

Oregon

Acquires Water Systems

THREE water systems are now owned by the city of Cascade Locks, it was announced early this month at a special council meeting. All three systems were formerly privately owned and were bought up by the city to preempt the field for its own $60,000 water system, which was expected to be completed August 10th.

Pennsylvania

Ordered to Repave Streets

ATTORNEY General Charles J. Margiotti on July 1st ruled that street railway companies must agree to repave streets and remove tracks, poles, and wires before the public service commission may grant permission to abandon service. Margiotti said it was the legal duty of railway companies to restore roadways.

The commission formerly required state and local authorities to go to court to compel railway companies to repave streets they formerly used.

Commission Denies Request

THE state public service commission on June 30th turned down the request of the Service Gas Company to supply natural gas in three northern Pennsylvania counties. The company sought to incorporate and establish service to 22 townships in Potter, Tioga, and McKean counties.

The commission said 19 of the townships were served by at least one company, and added "the public interest is better served by regulation of established companies which have maintained gas service in a territory for many years and have provided for the future, than by permitting competition where the proposed competitor cannot offer an assured future supply."

The commission stated that the gas supply available to the proposed Service Company would be exhausted in four years, and commented that the "established companies offer reliable gas supplies which will continue to be available far beyond that period."

The order also pointed out that the existing companies have an investment which it will be to their interests to protect, if the natural gas supply should fail, by the erection of artificial gas plants.

South Carolina

French Phone Rates Reduced

THE Southern Bell Telephone and Telegraph Company early this month agreed to discontinue a 25-cent a month special rate on "French" type telephone sets which have been in use eighteen months or longer, according to an announcement from B. H. Barre, chief engineer of the state public service commission. Barre estimated the annual saving to South Carolina subscribers would amount to $30,400.

The reduction was to become effective in August for all subscribers who have paid the special rate eighteen months or longer continuously. Other subscribers, Barre said, would continue to pay the special 25 cents per month charge until they had paid it for eighteen months.

It was said the reduction, with previous ones, would bring total rate cuts of the company in the state since January 1, 1935, to more than $205,000.

Bus Rules Too Strict

STATE public service commission officials revealed on July 3rd that the Broad River Power Company had filed a petition for the reformation of the commission's order calling for a complete substitution of busses for street cars in Columbia. The company asked the commission to delete several conditions attached to the substitution order "because the same are beyond the statutory authority of the commission and it is impossible for petitioner to accept them."

Also filed with the commission was a resolution of Columbia city council declaring the condition objected to might indefinitely delay the substitution and asking that they be withdrawn.

PERMAFLECTOR LUSTROLIER

No. 5100

Lustrolier No. 5100 is designed particularly for the lighting of department stores, especially the main floor where the majority of customers are received and receive their first impression of a wide variety of merchandise.

BEFORE The Northtown store of Wieboldt Stores, Inc., Chicago, showing the lighting from the old style glaring direct lighting fixtures



Every live up-to-date merchant recognizes that good lighting is his most effective salesman. It is a well known axiom that "Merchandise well displayed is half sold." With this thought in mind, thousands of merchants all over the country are modernizing their stores and good illumination should be their first step in this process.

AFTER The same store after installing Lustroliers No. 5100. Note the absence of glare and sharp shadows, but in their place soft evenly diffused illumination



Permaflector Lustrolier No. 5100 is the answer to the modern merchant's illumination problem. Predominantly an indirect lighting fixture, it also has a low direct lighting component transmitted through a large stippled heat resisting glass roundel in the bottom member.

Equipped for use with 750, 1000, or 1500 watt lamp, Lustrolier No. 5100 offers the public utility a lighting fixture which not only gets business, but builds up the lighting load. Recommend Lustrolier No. 5100 for the modernization of department stores.

PITTSBURGH REFLECTOR COMPANY

OLIVER BUILDING "Pittsburgh" Permaflector **PITTSBURGH, PA.**

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Insists on Rate Demand

GOVERNOR Olin Johnston, ex-officio chairman of the State Rural Electrification Authority, recently stated that that group would stand by its demand for a wholesale rate despite power company opposition and would take steps to provide for future expansion of its proposed public lines.

The authority favored litigation, if necessary, Governor Johnston said, to put into effect a wholesale rate of one cent a kilowatt hour for electricity to be sold to its lines by private power companies.

Several of the companies recently opposed a state public service commission order to put the rate into effect, leading to discussion of rates by the authority.

Tennessee

Asks PWA Loan

MAYOR A. B. Foust of Jackson recently announced the city was seeking a loan and grant of $675,000 from the Public Works Administration for use in construction of a municipal power distribution system. The city already has a contract with the Tennessee Valley Authority to furnish electricity, it is reported.

Mayor Foust said an election would be held to decide if the voters favored a bond issue to obtain funds for Jackson's share of the cost of building the power system.

Texas

Fights New Tax

THE Texas Power and Light Company early this month filed a petition for an injunction in district court against the city of Temple, to prevent the collection of a 4 per cent gross receipts tax recently authorized by an ordinance of the Temple city commission. A temporary injunction was granted.

The tax, according to the city officials, was levied because of the use of the streets and alleys by the company in the construction and maintenance of their poles, lines, and other fixtures.

The Community Natural Gas Company, the Western Union Telegraph Company, and the Southwestern Bell Telephone Company were also affected by the ordinance.

Virginia

Utility Tax Values Up

R. E. STEELE, assistant assessor of the state corporation commission reported early this month an increase of $876,842 in thirty-two Virginia electric light and power company valuations for taxation purposes this year as compared with 1935.

The total assessed value of the thirty-two electric light and power companies was placed at $35,481,308, as against $34,604,466 last year.

The assessment of the Virginia Electric and Power Company went up from $13,635,751 to $14,172,672. Its state tax was fixed at $304,976.46 for the year 1936. Railway properties in Richmond declined slightly in value during the year.

Washington

Power Survey under Way

A WORKS progress administration research project to assist in determining uses for the surplus electrical energy to be developed when the Grand Coulee and Bonneville dams are completed, was announced recently by Don G. Abel, state works progress administrator.

The 4-month project will be carried on at the University of Washington under the direction of Professor Carl E. Magnuson, director of the engineering experimental station.

Court Reverses Vote Ban

THE state supreme court on July 1st reopened Lincoln county's public utility question when it reversed a lower court decision enjoining the county election board from putting a power district proposal to a vote at the November election. The Washington Water Power Company brought the action.

All questions presented in the case were foreclosed by a previous decision, holding the law constitutional, the supreme court held.

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Electric Range Economy



INCREASE YOUR RANGE SALES!

The final test of your range is its speed and efficiency of operation—which result in consumer satisfaction. You can maintain these at a maximum with West Bend cooking sets—specially designed for the electric range.

HEATS EVENLY AND QUICKLY

The flat bottom of each utensil has a special heat-absorbing finish and fits snugly over the heating element. The diameter of these utensils conforms to the diameter of the heating element, thereby insuring complete coverage of the element.

Other aids to speed and economy are the straight sides and high polish on the outside. These features retard the escape of heat and impart an even distribution of it on the inside.

FOR WATERLESS COOKING

The set is designed for Waterless Cooking—the modern, healthful way. The close-fitting covers, with sunken "sanitary seal," retain all the natural vitamins, rich juices, essential elements, and genuine flavors of the food.

PATENTED HANDLE CONSTRUCTION

Made of heavy gauge aluminum, the set can be used in the oven or on top of the stove for general cooking. The sauce pans and skillet are equipped with a patented handle construction—a square shaft prevents the handle from turning. Removable feature of handles allows use of the utensils in the oven.

Write for complete information regarding our line of range sets and load-building appliances!

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Dept. 66 **West Bend, Wisconsin**

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It's easier to sell the radio equipped with nationally-known tubes

—*just as* **IT'S EASIER TO SELL THE RANGE EQUIPPED WITH NATIONALLY-ADVERTISED, NATIONALLY-KNOWN**

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OVEN-HEAT-CONTROL

Nationally Advertised - Known to Women



Nationally Advertised

Link a famous name with a famous name, and sales for the product are made easier, quicker, smoother.

Robertshaw speeds the sales of modern gas ranges because its oven-heat-control is known to every woman.

Once a woman hears that the range is Robertshaw-equipped, she knows she is buying a combination of the best in modern cookery. She knows that her range selection is a wise one. The name Robertshaw will help you to sell ranges because it is a nationally-known name.

ROBERTSHAW THERMOSTAT COMPANY, YOUNGWOOD, PENNA.

Sell the ranges equipped with

ROBERTSHAW OVEN-HEAT-CONTROL

MORE THAN 2,500,000 IN USE

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TEMPERATURE LIMITATION IS ESSENTIAL TO THE SAFE OPERATION OF DOMESTIC WATER HEATERS



Years of exhaustive study, research, and compilation of data obtained under test and actual service conditions . . . proved a contention, long held by Kitson, that pressure relief on domestic water heaters is *not* alone sufficient —that, rather, true emergency relief depends upon temperature limitation.

That principle, so thoroughly demonstrated, dictated that the entire line of Automatic Devices made by Kitson (under Lovekin patents) be designed for thermal control—*for positive emergency relief.*

We will be glad to send you very interesting literature based on our investigation of the subject of temperature limitation. Write today, on your business letterhead, and it will be forwarded promptly.

L. T. P.—103 Temperature and Pressure Relief Valve

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Kitson Safety Devices (Lovekin Patents) for Domestic Water Heaters	Quality Brass Goods for Gas, Water and All Plumbing Uses

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USALITE sets a new standard in INDUSTRIAL FLASHLIGHT BATTERIES—batteries especially constructed with waterproof red rubberized fibre tops for perfect insulation and GUARANTEED to give hours and hours of extra service.

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USALITE industrial flashlight batteries not only meet but far exceed United States Gov't Specifications. The special red rubberized fibre tops permit the use of more energizing materials and guards against short circuits, leakage and cracks. For greater battery service use USALITE. Write for prices and details today!



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No weak spots for corrosion to attack—The Bethanized Wire can be wrapped around its own diameter without breaking or flaking its corrosion-defying zinc coating.

These fences Stand Up years longer because they can

STAND THE WRAP!



Here are the quick facts. Unlike other chain link wire, the zinc coating on Bethanized Wire is chemically pure—free from any vulnerable iron content. It is smooth and uniform—free from rough or thin spots. And it is extremely ductile—not hard, brittle and flaky. Twist the wire, bend it double, wrap it around itself—you just can't break the zinc coating and expose the steel core to corrosion.

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ANCHOR *Fences*

OF *BETHANIZED* WIRE

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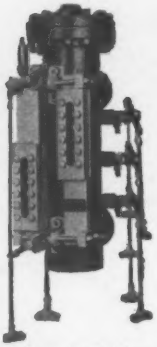
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BOILER SAFETY

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HIGHEST PRESSURES



Reliance Forged Steel Boiler Alarm No. W-850 for pressure to 850 pounds

THE higher the boiler pressure the greater the need of safe control.

On thousands of high pressure boilers, Reliance Forged Steel Boiler Alarms have demonstrated their ability to maintain instant and reliable check of water levels.

Reliance engineers have simply taken the famous Reliance alarm mechanism, tested and proved on more than 130,000 boilers, and rebuilt it of finer, more powerful metals for service under top pressure conditions.

No experiment about these alarms. They have long led the high pressure field. They assure you the utmost in boiler water-level control. Not one Reliance alarm has been known to fail in an emergency.

Write for new Reliance literature describing them.

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The Reliance Gauge Column Co.
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Reliance

SAFETY WATER COLUMNS

The Trend to Dictaphone Sweeps On

To your secretary, it means all that note-taking time is released for valuable work. To you, it means instant dictation facilities always available, without dependence on anybody else. That's why we say this modern dictating instrument doubles your ability to get things done.

DICTAPHONE
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DAVEY LINE CLEARING SERVICE

Line Clearing is a Headache

IF YOU WANT TO INVITE TROUBLE just tell some genuine tree lover that you are going to cut a good healthy swath through his or her trees in order to get clearance for some wires. Right away, the sparks begin to spark.

But Davey men find that if the necessity for securing clearance for wires is courteously explained to tree owners, and that if they are assured that the work will be done by trained Davey Tree Surgeons—well then the big frowns fade. People know that Davey men have a national reputation for skillful workmanship, which must be maintained. If clearance for lines has to be secured, tree owners like to have Davey men do the work. Smart people, these tree owners.

And the nice part of it is that the cost of Davey service is so inexpensive. That's one reason why the use of Davey line clearing service has grown so steadily.

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DAVEY TREE SURGEONS

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To supplement your organization . . . to save you the cost of breaking in additional linemen . . . to enable you to avoid discharging new men when projects near completion. . .

To build rural lines on a production basis at surprisingly low costs . . . to save you time and trouble as well as money, on your extra rural or transmission line construction.

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GARRISON

The Modern DRY Method of FIRE Extinguishment

BULLETIN NO. 4—for the information of PUBLIC UTILITY EXECUTIVES

GARRISON WHEELED ENGINE NO. 100

Weight 350 lbs. Width 29 in. Height 51 in. Capacity of Compound Tank, 100 lbs. Pressure cylinder capacity 100 cu. ft. Equipped with easy-reading gauges, automatic shut-off control nozzle, and 50 ft. of ½ inch hose.



A bad fire—250 gallons of oil and 20 gallons of gasoline, in a pit 20 x 10 ft., 12 in. deep, burning 3 minutes—was extinguished by GARRISON wheeled engine No. 100 in 27 SECONDS! Try to match that with any size of any ordinary fire-extinguisher!

No. 100, because of its size and low wheels, is best suited for indoor use, or comparatively smooth outdoor surfaces. It will pass through standard door openings. The capacity of the pressure cylinder is more than sufficient to completely empty the compound tank. Pressure remaining after use is registered on a pressure gauge. An automatic reducing valve regulates the pressure admitted to the compound tank when in operation, so that a uniform STEADY EFFECTIVE STREAM is always secured. The operator is protected by the cool barrier of GARRISON DRY compound, in the form of a cloud, and by the expanding fire-extinguishing gas under pressure, which blows away the flames and permits close approach to the fire. The more intense the fire, the greater is the extinguishing action of GARRISON DRY compound.

GARRISON wheeled engine No. 100 W is the same as No. 100, but is equipped with 36 inch wheels with 2½ inch face.

REMEMBER—GARRISON DRY compound is a non-conductor of electricity—never deteriorates— and harms nothing but fire.

Sole Exclusive Manufacturing and Sales Licensee under all Du Gas Company patents—U. S. Patents 1,793,420, 1,839,658, 1,866,981, and others issued, and patents applied for—and foreign patents both issued and pending—as well as under Garrison "patent applications pending."

GARRISON FIRE CONTROL PRODUCTS

GARRISON ENGINEERING CORPORATION

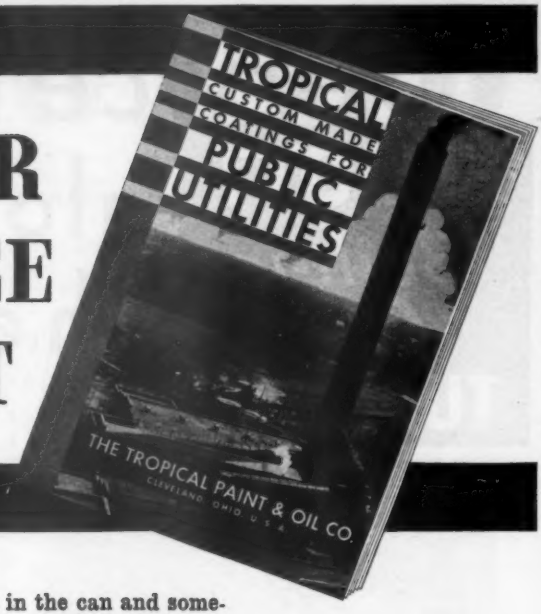
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TWO paints may look alike in the can and sometimes even on the surface to which they are applied, yet they may be constituted of widely differing ingredients and intended for as widely different uses.

Lead is of great value in some paints yet in others it is a detriment. Similarly linseed oil is indispensable in some paints while in others china wood oil is far superior.

Paints must be selected according to the service they are expected to render, the conditions of their use and abuse and the surfaces to which they are to be applied.

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ONE OF 71 CUSTOM MADE PRODUCTS

A. C. B. PRIMER

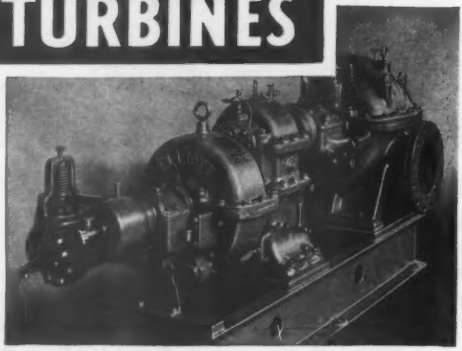
A Bakelite reinforced priming coat for iron and steel. Prevents penetration of moisture. Disperses moisture beneath paint film. The most efficient of rust and corrosion preventative primers.

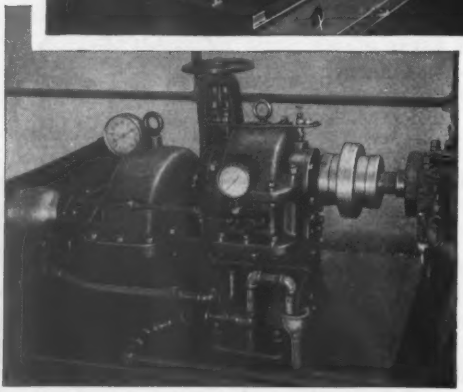
The Tropical Paint & Oil Company
1100-1300 W. 70th Street **Cleveland, Ohio**

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Service is "built-in along with the gears

ELLIOTT
"Built-in Gear"
TURBINES





Excellent performance insured by th features:

Centerline support throughout, — overhung members, — five bearings, making a rigid unit, with no possibi of misalignment.

Complete self-contained, forced-fe water-cooled oiling system.

Both constant-speed and oversp governors actuating separate valves.

Unit horizontally split throughou with steam connections in lower h of casing.

Gears vertically offset, allowing straight, narrow base-plate and a lo pad under the turbine since the slo speed driven machine is almost alwa larger than the turbine.

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Built in a complete range of sizes a speeds, and for practically any str pressure and temperature.

For low speed drives, Elliott "built-in gear" turbines make possible a steam drive which is at once efficient and economical in cost and space requirements.

Use these turbines for driving fans, compressors, coal pulverizers, pumps, stokers, conveyors, etc.

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JEANNETTE, PA.

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TYPE HFA
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Manufacturers of . . .

Alternating Current Watthour Meters, Direct Current Watthour Meters, Ampere Hour Meters, Instrument Transformers, Demand Meters, A.C. Synchronous Motor Time-switch, A.C. and D.C. Electrically Wound Time-switches, Radio Condensers, Sign Flashers.

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DELTA-STAR ELECTRIC CO.
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No. 6 of a series of messages to Public Utility executives pointing out oppo tunities for load-building by promoting the use of electric arc weldi

1.75 KWH

For every pound of electrode used

Free Instruction for Power Salesmen

•

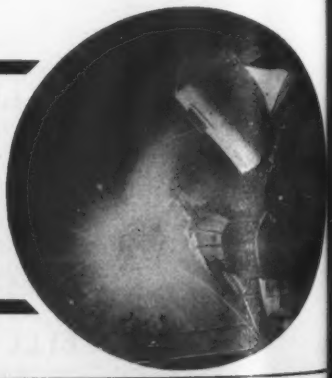
In several cities, the local Lincoln engineers are contributing their services to the instruction of power salesmen, periodically, in the various phases of arc welding application. These blackboard talks give the salesmen sufficient knowledge of arc welding so that they can discuss it intelligently with prospects. Are you interested in securing this service? Just get in touch with our main office in Cleveland, Ohio.

Every welding arc you put to work consumes 1.7 kilowatt hours for every pound of electrode use And bear in mind, this load is a desirable one, fo an arc welding machine has the power facto characteristics of an induction motor.

Scores of shops, not on the prospect lists of you power salesmen, are NOW hot prospects for ar welding load. Recent Lincoln developments i welding machines and electrodes have extended th usefulness of arc welding to many trades and in dustries. Why not acquaint yourself with thi growing market and lay plans to make capital of it

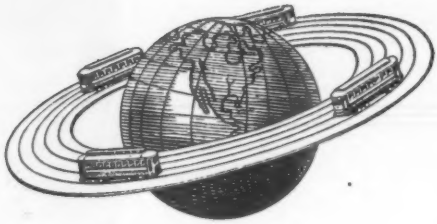
Lincoln is at your service! THE LINCOLN ELEC TRIC COMPANY, Dept. YY-287, Cleveland, Ohio Largest Manufacturers of Arc Welding Equipmen in the World.

LINCOLN



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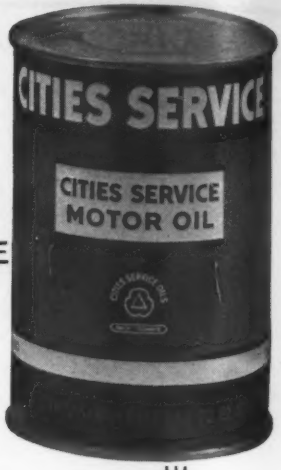


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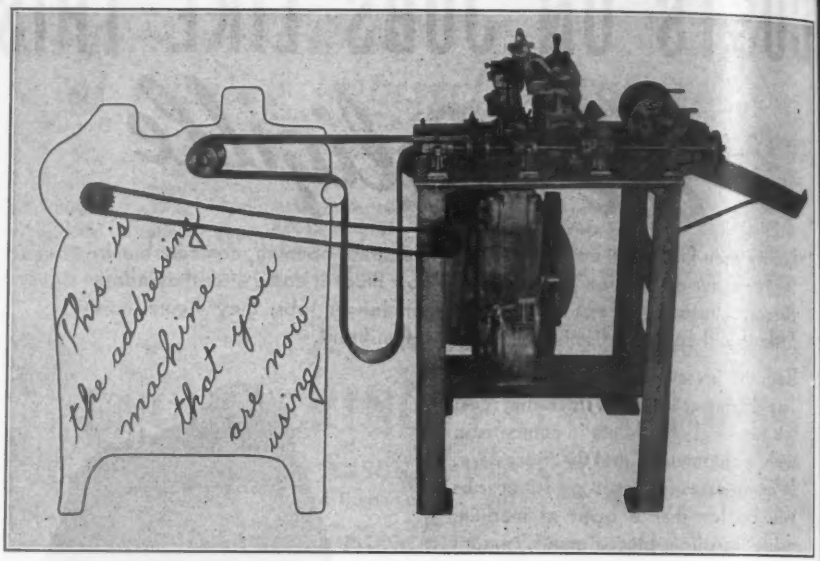
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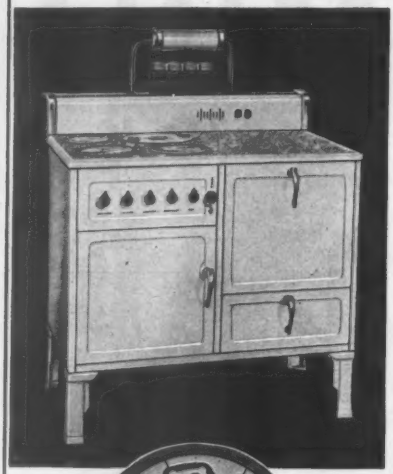
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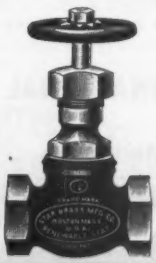
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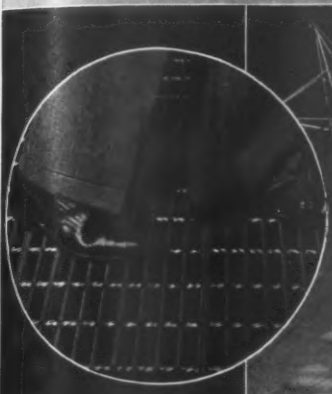
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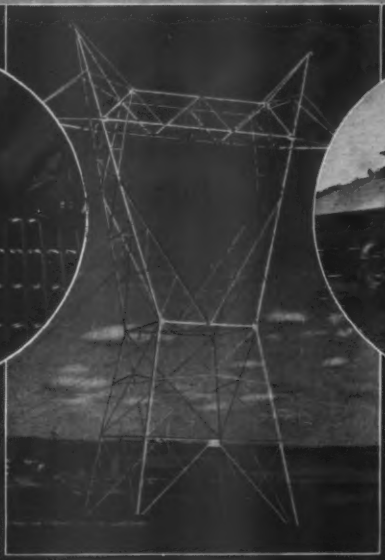
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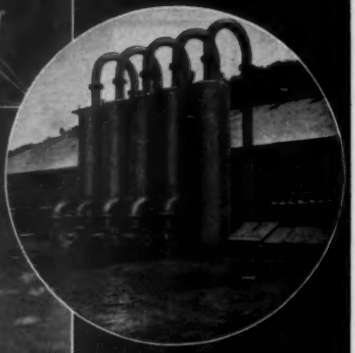
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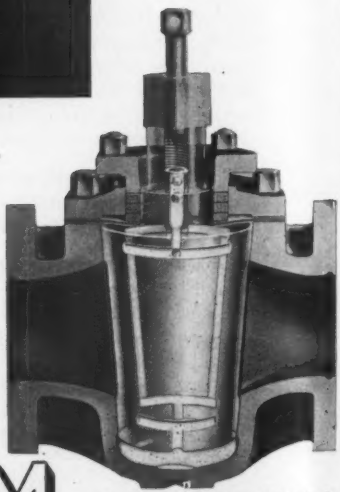
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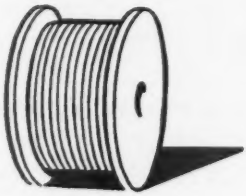
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